

**CITY OF HAPPY VALLEY
PLANNING COMMISSION HEARING
AGENDA**

**March 9, 2010
7:00 p.m.**

Roll Call

7:00 P.M. CALL TO ORDER

1. CITIZEN COMMENT

(Anyone wishing to address the Planning Commission concerning items not on the agenda may do so. When recognized by the Commission, please state name and address for the record. Please direct all comments to the whole Commission. The Commission reserves the right to delay any action, if required, until such time when they are fully informed on the matter)

2. OATH OF OFFICE – Tim Hartzell

3. CONSENT AGENDA ITEMS

1. Minutes dated February 9, 2010

4. HOB-01-10 - ADULT FOSTER CARE

The applicant requests approval of a Class B home occupation permit to allow an adult foster care home for developmentally disabled persons to operate in a single-family residence. The care home will have the capacity to handle up to five residents and will be operated by the primary occupant of the residence. The applicant will require the services of one to three full-time employees, who will report to work at the home occupation. The subject residence will provide a total of four off-street parking spaces.

5. LDC-05-09 TEXT AMENDMENTS TO CITY CODE

The proposed administrative amendments represent City initiated amendments to a single Comprehensive Plan Policy (Policy 77); Title 3 (Revenue and Finance); Title 15 (Building and Construction); and Title 16 (Development Code). The proposed changes are presented either as corrections necessary due to past amendments, issues identified by staff, property owners, consultants and legal counsel.

6. COMMISSIONERS CONCERNS AND COMMENT

7. ADJOURNMENT

City of Happy Valley
Planning Commission Minutes
Tuesday, February 9, 2010

Commission Members Present:

Chair, Kenneth Koblitz
Vice Chair, Diane Morrow
Commissioner, Winston Kurth
Commissioner, Shanin Prusia
Commissioner, Walter Barnes
Commissioner, Janelle Brannan

Staff Members Present:

Michael Walter, Interim Economic &
Community Development Director
Justin Popilek, Associate Planner
Cheryl Whitehead, Planning Assistant

Others Present:

(See attached sign-in sheet)

CALL TO ORDER

Chair Koblitz called the meeting to order at 7:00 p.m. Roll call was taken.

I. CITIZEN COMMENT

No citizen comments.

II. CONSENT AGENDA ITEMS

1. Minutes dated January 12, 2010

Chair Koblitz made a motion to approve the Consent Agenda. Commissioner Barnes seconded the motion.

Commissioners all in favor. The Consent Agenda was passed.

III. HOB-02-09 – TOM & LIZBETH HALE - WINERY

The applicants are requesting approval of a Class B home occupation permit to allow for the operation of a winery on the subject property. The operation of the winery consists of growing and harvesting grapes, processing of the grapes into wine, and bottling of the wine that is produced.

Michael Walter, Economic & Community Development Director, stated that Tom Hale sent an email to the City withdrawing the home occupancy permit.

IV. CUP -01-10 PENDARVIS

The applicant proposes to host special events, such as weddings, birthdays, and corporate outings at the subject site between the months of May and October. These events are proposed to only occur on weekends and have no more than 300 attendees, with most events involving 100 persons or less. Portable sanitation units are required at a ratio of one per 10 persons including at least one ADA compliant unit. There will be no amplified music associated with these events after 10:00 p.m.

Chair Koblitz read the hearing script in to the record. He asked Commissioners for any Declarations of Exparte Contact, Bias or Conflict of Interest.

None Declared.

Chair Koblitz asked the audience if there are any challenges to any Councilors Exparte Contact, Bias or Conflict of Interest.

None Challenged.

Justin Popilek, Associate Planner, gave the following staff report:

- The Conditional Use Permit (CUP) application is for a special events facility with events primarily outdoors
- There is a total of nine (9) properties on eighty three (83) acres
- The properties have existed in unincorporated Clackamas County with this use for many years
- In 2007 the properties were annexed into the City of Happy Valley
- The CUP is to host weddings, outing etc. from May through October on weekends and with no more than 300 attendees with most hosting less than 100 attendees
- Amplified outdoor music will be limited to before 10:00 p.m.
- A condition of approval will require a ratio of one (1) port a potty to every ten (10) attendees
- The CUP will be for a maximum of five (5) years to allow the City to review the events as necessary
- The proposed CUP is permitted within the current zoning of the properties
- The Pendarvis proposal meets the three (3) criteria's listed on page 51
- This request fits the character of the surrounding neighborhood
- The five (5) year limit was built in to allow the City to reevaluate with future development
- The properties are large enough that the adjoining properties are limited to the negative impacts since there is plenty of buffer for shielding
- Staff recommends approval of CUP-01-10

Justin Popilek gave written correspondence in support of the CUP to the Planning Commission which was then entered into the record.

Public testimony opened at 7:15 p.m.

Scott Pendarvis
16581 SE Hagen Road
Happy Valley, OR 97086

Scott Pendarvis made the following comments:

- Wants to continue doing events as they have done since 1994
- The five (5) year period will allow the City to review the events as necessary
- Is very happy to have this resolved
- Has worked out a four (4) to one (1) ratio regarding the port a pottys with past temporary use permits
- Will renew business license and will contact the fire marshall
- The general owners of the property with Mr. Pendarvis have signed off on this agreement

Commissioner Kurth asked if alcohol was allowed at these events?

Mr. Pendarvis stated that alcohol is allowed but must be served by a professional server which is supplied by the applicant. They do not provide these services.

Public testimony closed at 7:20 p.m.

Michael Walter stated that the ratio of port a pottys was taken from a temporary permit from last year. Staff will work out the details of the port a pottys with the applicant.

Chair Koblitz made a motion to approve CUP-01-10. Commissioner Kurth seconded the motion.

Roll Call Vote: Ayes from Commissioners Koblitz, Kurth, Brannan, Prusia, Morrow and Barnes. The motion was passed with a unanimous vote.

Michael Walter thanked the Pendarvis's for annexing into the City and for going through all of the City's requirements. The Pendarvis's put on a great event and there is a lot of neighbor and community support.

V. COMMISSIONERS CONCERNS AND COMMENT

The Following comments were made:

- Chair Koblitz asked Michael Walter regarding the Interim Economic & Community Development Director position – Michael Walter stated that a decision has not been determined as of yet
- Planning Commission:
 - The next Planning Commission meeting will be held on March 9, 2010
 - Ted Hartzell the new commissioner will be in attendance
 - Ted Hartzell has a background in construction management
- Three (3) Design Review Board members were also appointed with one (1) having a finance background and the other two (2) are at large positions
- The only position not filled on the Design Review Board was the landscape position. The City will use a landscape firm under contract for this position

VI. ADJOURNMENT

Chair Koblitz made a motion to adjourn the meeting. Commissioner Morrow seconded the motion.

Roll Call Vote: Ayes from Commissioners Koblitz, Kurth, Brannan, Prusia, Morrow and Barnes. The motion was passed with a unanimous vote.

The meeting was adjourned at 7:31 p.m.

Prepared and submitted by:

Cheryl Whitehead
Planning Assistant

These minutes will be approved at the March 9, 2010 Planning Commission Meeting.



**CITY OF HAPPY VALLEY
STAFF REPORT TO THE PLANNING COMMISSION**

Class B Home Occupation
Adult Foster Care Home
HOB-01-10

March 9, 2010

The following staff report has been prepared based on the information contained in the application and supplemental information provided by the applicant. Information compiled by city staff and responses received from property owners residing in the area adjacent to the subject site were also incorporated into this report.

I. GENERAL INFORMATION

APPLICANT:

Tefera Wondwesen
15273 SE Francesca Lane
Happy Valley, OR 97086

PROPERTY OWNER:

Lisa Ephrem
15624 SE Chelsea Morning Drive
Happy Valley, OR 97086

**PROPERTY
LOCATION:**

15273 SE Francesca Lane

TAX MAP/LOT NUMBER

1S2E-36DC-00400

PLAN DESIGNATION:

R-15, Very Low Density Residential

PROJECT DESCRIPTION:

The applicant requests approval of a Class B home occupation permit to allow for the operation of an adult foster care home within a single-family residence.

16000 SE Misty Drive
Happy Valley, Oregon 97086
Telephone: (503) 783-3800 Fax: (503) 658-5174
Website: www.ci.happy-valley.or.us

EXHIBIT #

1

APPLICABLE CRITERIA: City of Happy Valley Land Development Code (LDC), including Section 16.22.020 (Very low density residential zones) and Section 16.69.020 (Home occupation permits).

ADJACENT LAND USE: Properties to the north, east and south contain single-family residences. To the west is 152nd Ave.

EXHIBITS:

1. Staff Report and Findings of Fact
2. Vicinity Map
3. Application and Questionnaire
4. E-mail from the Applicant dated January 22, 2010
5. Public Notice

OBSERVATIONS:

PROJECT DESCRIPTION

The applicant is requesting approval of a Class B home occupation permit to allow an adult foster care home for developmentally disabled persons to operate in a single-family residence. The subject property is located within the Shadowridge subdivision. The care home will have the capacity to handle up to five residents and will be operated by the primary occupant of the residence, the applicant. The applicant will require the services of one to three full-time employees, who will report to work at the home occupation. The applicant has also stated that no clients (other than those living at the care home) will be visiting the adult care home in any given 24-hour period. Furthermore, the subject residence provides a total of four off-street parking spaces, two for the residence and two for the home occupation.

SITE DESCRIPTION

The subject site is approximately 8,835 square feet in size and located on SE Francesa Lane, just north of Frye Street. The site backs to 152nd Ave. and slopes considerably to the east from that roadway, including the construction of a rear property line fence and lower boulder retaining wall. The solid wood fence continues up the majority of the southern property line, though not extending north, thereby "re-connecting" to the house. A fence does not exist along the northern property line.

PUBLIC COMMENTS

The City received no letters from area residents during the public comment period. All four letters are in opposition of the City approving the proposed home occupation, stating a variety of reasons from parking to public safety.

II. FINDINGS OF FACT

A. HAPPY VALLEY LAND DEVELOPMENT CODE

"16.12.030 Definitions.

The following definitions are organized alphabetically and some related terms are also grouped together and cross-referenced under group leadings (e. g., Lot Types). See also Chapter 16.21 for descriptions of the land use districts.

[...]

***Home occupation, home occupation site.** A business activity that is carried out on the same site as a dwelling unit, and which is accessory to the residential use on the site, subject to the provisions of Chapter 16.22 (Residential Land Use Districts) and Section 16.69.020 (Home Occupation Permits).*

[...]

16.22.020 Very low density residential zones.

A. Purpose.

[...]

3. Residential—Fifteen Thousand (15,000) Square Feet (R-15). This low density urban residential district responds to the continuing urbanization of the City due to the availability of public sanitary sewers in areas previously zoned R-40 or R-20. Single-family detached dwellings are encouraged in this district which seeks to maintain "estate development" within the urban framework of the City. This district is a buffer between the densities allowed in the lower density R-20 district and the densities allowed in the medium density, more typical urban residential districts. The numerical designation of R-15 shall be interpreted to mean that the maximum density shall be one primary dwelling unit per fifteen thousand (15,000) square feet of lot area.

B. Permitted Uses. Table 16.22.020-1 identifies the land uses allowed in the R-40, R-20 and R-15 Districts.

Table 16.22.020-1 Very Low Density Residential (R-40, R-20, R-15) Permitted Uses

P=Permitted; C=Conditional Use; X=Prohibited

| <i>Land Use</i> | <i>R-40</i> | <i>R-20</i> | <i>R-15</i> |
|--|-------------|-------------|-------------|
| <i>Residential</i> | | | |
| <i>One single-family frame dwelling, modular dwelling unit or manufactured home per lot</i> | <i>P</i> | <i>P</i> | <i>P</i> |
| <i>Single-family attached dwelling units, duplexes, multiple family units or manufactured housing, approved as part of a PUD application pursuant to Section 16.63.130</i> | <i>P</i> | <i>P</i> | <i>P</i> |
| <i>Accessory dwelling units complying with Section 16.44.050</i> | <i>P</i> | <i>P</i> | <i>P</i> |
| <i>Temporary manufactured home to allow for care of an aged or infirmed relative, provided that adequate water, sewage, disposal and fire protection are available, and that tongue, undercarriage and axles remain intact on the unit. Undercarriage wheels and supporting base must be covered with a full ground length sign-obscuring skirting around the entire circumference of the manufactured home.</i> | <i>C</i> | <i>C</i> | <i>C</i> |
| <i>Residential care home</i> | <i>P</i> | <i>P</i> | <i>P</i> |

| <i>Land Use</i> | <i>R-40</i> | <i>R-20</i> | <i>R-15</i> |
|---|-------------|-------------|-------------|
| <i>Residential care facilities</i> | <i>C</i> | <i>C</i> | <i>C</i> |
| <i>Home occupation as defined in Section 16.12.030, per the provisions of Section 16.69.020</i> | <i>P</i> | <i>P</i> | <i>P</i> |

Staff Response:

The application meets the definition of a home occupation as defined in Section 16.12.030 and as delineated in Table 16.22.020-1, home occupations are a permitted use in the R-15 zone. Therefore, these criteria are satisfied by the subject request.

[...]

16.69.020-Home Occupation Permits.

[...]

E. General Approval Criteria and Standards. All home occupations except those that have proven nonconforming status shall observe the following criteria in addition to the standards established for Class A and Class B uses described in Section 16.69.020(E) of this chapter.

1. Home occupations may be undertaken only by the principal occupant(s) of a residential property.

Staff Response:

The applicant is the owner and principal occupant of the residence. Therefore, this criterion is satisfied by the subject request.

2. No deliveries shall be made to the residence other than by traditional small-scale means normally found in a residential area, such as the United States Postal Service, UPS, Federal Express, messenger services, etc. There shall be no commercial vehicle deliveries during the hours of 10:00 p.m. to 7:00 a.m.

Staff Response:

The applicant stated as part of the home occupation permit questionnaire (Exhibit 3) that he will not receive deliveries other than by traditional small scale means or between the hours of 10:00 p.m. and 7:00 a.m. Therefore, this criterion is satisfied by the subject request.

3. There shall be no offensive noise, vibration, smoke, dust, odors, heat or glare noticeable at or beyond the property line resulting from the operation.

Staff Response:

Information provided by the applicant illustrates that the activities associated with the adult foster care home will not produce offensive conditions to surrounding residents. Further, it will be conditioned that the requirements of the above subsection be met. Therefore, this criterion is satisfied by the subject request.

4. *The home occupation shall be operated entirely within the dwelling unit and any conforming accessory structure. The total area which may be used in the dwelling unit and any accessory building for either material product storage and/or the business activity shall not exceed more than fifty (50) percent of the combined residence and accessory structure gross floor area. The indoor storage of materials or products shall not exceed the limitations imposed by the provisions of the building, fire, health and housing codes.*

Staff Response:

The adult foster care home will be operated entirely within the residence. According to the applicant's completed questionnaire, the home occupation (including storage) will not use more than 50 percent of the total floor area of the home. Therefore, this criterion is satisfied by the subject request.

5. *There shall be no change in the most current One and Two-Family Dwelling (CABO) Code occupancy classification of the dwelling unit or any portion of the dwelling unit, including the garage.*

Staff Response:

There will be no change to the occupancy classification of single-family residence. Therefore, this criterion is satisfied by the subject request.

6. *More than one business activity constituting two or more home occupations shall be allowed on one property only if the combined floor space of the business activities does not exceed the limitation of space imposed in subsection (E)(4) of this section. Each home occupation shall apply for a separate home occupation permit, if required as per this chapter, and each shall also have separate city business license.*

Staff Response:

One home occupation is proposed within the subject residence and it shall not exceed the space limitations of Section 16.69.020.E.4. Therefore, this criterion is satisfied by the subject request.

7. *There shall be no storage and/or distribution of toxic or flammable materials, and spray painting or spray finishing operations that involve toxic or flammable materials which in the judgment of the fire marshal pose a dangerous risk to the residence, its occupants, and/or surrounding properties. Those individuals that are engaged in home occupations shall make available to the fire marshal for review the material safety data sheets which pertain to all potentially toxic and/or flammable materials associated with the use.*

Staff Response:

The applicant indicates that no hazardous materials are proposed to be stored on site in conjunction with the proposed home occupation. Therefore, this criterion is satisfied by the subject request.

8. *No home occupation shall require any on or off-street parking other than that normally required for a residence.*

Staff Response:

The residence meets the requirement of two off-street parking spaces for a single-family detached dwelling by providing spaces within the garage of the residence. There will also be a minimum of two additional off-street parking spaces for the home occupation, as required in Section 16.69.020.F.2.e, located in the driveway of the residence. Therefore, this criterion is satisfied by the subject request.

[...]

F. Class A and B Home Occupations Defined. Home occupations shall be administered as either Class A or Class B uses. A separate home occupation permit and/or fee are required for each property on which a Type II home occupation is undertaken. For the purposes of this section, "home" refers to the residential location, including a single-family dwelling unit, accessory dwelling unit, multifamily unit, condominium unit, etc. In addition to the general criteria outlined in subsection (E) of this section, home occupations shall observe the following additional standards.

[...]

2. *Class B Home Occupations. Property on which a Class B home occupation is located may show evidence that a business is being conducted from the premises. Therefore the following is allowed for Class B home occupations:*

a. *One nonilluminated sign, not exceeding one and one half (1.5) square feet, which shall be attached to the residence or accessory structure or placed in a window;*

Staff Response:

The applicant has indicated that there will be no signage associated with the home occupation. However, as such signage is allowed in conjunction with a Class B Home Occupation, a condition of approval has been added to this report requiring that if any future signage should be placed, that it be in conformance with the above standards. Therefore, this criterion is satisfied by the subject request.

b. *No more than three outside volunteers or employees who are not a principal resident of the premises;*

Staff Response:

The applicant states in the home occupation questionnaire that he will require the services of one to three full-time employees to operate the proposed adult foster care home. Therefore, this criterion is satisfied by the subject request.

c. *No more than six daily customers or clients. Customers and clients may not visit the business between the hours of 10:00 PM and 8:00 AM and shall not generate excessive traffic or monopolize on-street parking (the generation of excessive traffic or*

monopolization of on-street parking shall be at the sole discretion of the community development director or designee);

Staff Response:

According to the applicant's home occupation permit questionnaire (Exhibit 3), no customers or clients will be visiting the adult foster care home in any given 24-hour period. However, in the event that clients (other than those living at the care home) are required to visit the home occupation, the applicant has provided a total of four off-street parking spaces, two for the residence and two for the home occupation, to meet the minimum number of spaces required per Section 16.69.020.F.2.e. Therefore, this criterion is satisfied by the subject request.

d. Storage of materials, goods, and equipment which is screened entirely from view by a solid fence. Storage shall not exceed five percent of the total lot area and shall not occur within the front yard or the required side yard setback.

Staff Response:

The applicant does not propose outside storage of materials, goods, or equipment. Therefore, this criterion is satisfied by the subject request.

e. Off-Street Parking. Two on-site parking spaces shall be provided for the home occupation in addition to those spaces already required for the dwelling. No more than two customer vehicles may visit the home occupation at any one time and these must use the designated parking spaces outside. No commercially licensed vehicle in excess of three-quarter-ton manufacturer's rating shall be utilized or parked at the dwelling unit by any resident or employee in connection with the home occupation, unless parked or stored in a fully enclosed building that is screened from adjacent residentially zoned lands by a fence or solid vegetative screen a minimum of six feet in height. In no case shall more than two commercial grade vehicles in excess of one-and-one-half-ton manufacturer's rating be parked or stored within the fully enclosed structures;

Staff Response:

There is a minimum of two off-street parking spaces provided in addition to the required two spaces for the residence. Also, the applicant has stated on the home occupation permit questionnaire that no customers or clients will visit the home occupation at any given time and no commercially licensed vehicles will be associated with the home occupation. Therefore, this criterion is satisfied by the subject request.

[...]

G. *Permit Procedures for Class A and Class B Home Occupations.*

[...]

2. *Class B Home Occupation Permit. A Class B home occupation permit will be processed by means of a quasi-judicial procedure, and is subject to review by the planning commission, per the requirements of Article 16.6 (Administration of Land Use and Development).*

3. *Conditions of Approval. Staff may recommend, and the planning commission may impose, conditions upon the approval of a Class B home occupation permit to ensure compliance with the requirements of this chapter. These conditions may include, but are not limited to, the following:*

- a. *Further limiting the hours, days, place and manner of operation;*
- b. *Requiring site and building design features which minimize environmental impacts such as noise, vibration, air pollution, glare, odor and dust;*
- c. *Requiring additional building setbacks, and increased lot area, depth or width;*
- d. *Further limiting the building area and outdoor storage used by the home occupation and restricting the location of the use on the site in relationship to adjoining uses;*
- e. *Designating the size, number, location and design of vehicle access points;*
- f. *Requiring street right-of-way to be free at all times of vehicles associated with the home occupation;*
- g. *Requiring landscaping, buffering and/or screening, of the home occupation from adjoining uses and establishing standards for the continued maintenance of these improvements;*
- h. *Requiring storm drainage improvements, and surfacing of parking and loading areas;*
- i. *Limiting the extent and type of interior or exterior building remodeling necessary to accommodate the home occupation;*
- j. *Limiting or setting standards for the location and intensity of outdoor lighting;*
- k. *Requiring and designating the size, height and location of fences and materials used for their construction;*
- l. *Requiring the protection and preservation of existing trees, and other vegetation, watercourses, slopes, wildlife habitat areas and drainage areas;*
- m. *Limiting the type and number of vehicles or equipment to be parked or stored on the site; and*
- n. *Any other limitations which the staff and planning commission considers to be necessary or desirable to make the use comply with this section.*

Staff Response:

Staff recommends that the proposed adult foster care home include a continuous solid wood fenced yard. This would require the extension of the southern fence line to the north (to the residence) as well as construction of a fence along the northern property line, conversely connecting to the residence to the south. Unless additional recommendations allowed under Section 16.69.020.G.3.a-n are required by the Planning Commission, these criteria are satisfied per proposed Condition of Approval No. 7.

I. *Business License Required. Besides meeting the requirements of this section, the business or commercial use of any home for a home occupation must be supported by an active city business license. No business license will be issued for a home occupation until:*

1. *The person wishing to engage in a Class A home occupation pays the one-time review fee and agrees to comply with the provisions of this chapter; or*

2. *The applicant for a Class B home occupation has been approved and the application certifies that the home occupation will be operated in strict compliance with the provisions of this chapter and the conditions of approval."*

Staff Response:

Staff notes that the applicant's response to the Questionnaire (No. 22) is likely an error. This is due to the fact that the applicant has a pending application for a Happy Valley business license. Therefore, this criterion is satisfied by the subject request.

III. RECOMENDATION

The applicant has submitted a Class B Home Occupation permit that as conditioned, will fulfill the criteria associated with the Land Development Code. Therefore, based on the findings of fact, the conclusionary findings for approval, and the material submitted by the applicant, we recommend that HOB-01-10 be approved, subject to the following conditions:

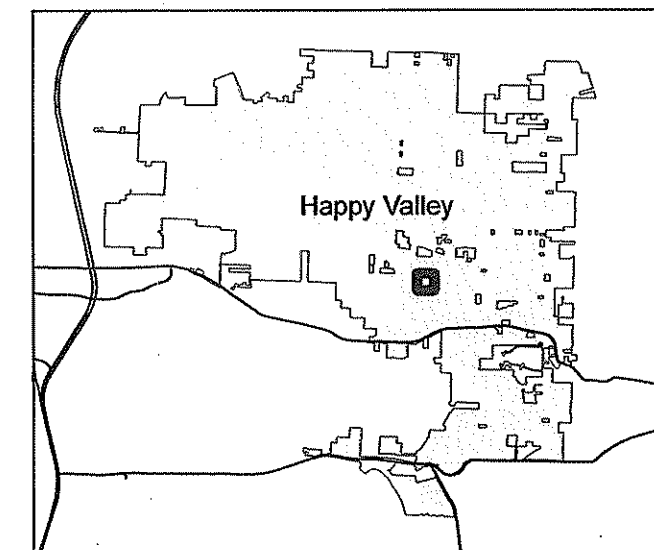
CONDITIONS OF APPROVAL HOB-01-10

1. No commercial vehicle deliveries shall be allowed other than by traditional small-scale means normally found in a residential area, such as United States Postal Service, UPS, Federal Express, etc. There shall be no deliveries of any type between the hours of 10 p.m. to 7 a.m.
2. There shall be no offensive noise, vibration, smoke, dust, odors, heat or glare noticeable at or beyond the property line resulting from the home occupation.
3. The home occupation is allowed one nonilluminated sign, not exceeding one and one half (1.5) square feet, which shall be attached to the residence or accessory structure or placed in a window.
4. No more than six daily customers or clients are allowed to visit the home occupation. No visitors of the home occupation are allowed between the hours of 10:00 p.m. to 8:00 a.m. In addition, no more than three outside volunteers or employees who are not a principal resident of the premises may work at the subject site.
5. A minimum of two on-site parking spaces shall be provided for the home occupation in addition to those spaces already required for the dwelling.
6. The home occupation shall be operated by the principal occupant(s) of the residential property or their immediate family member(s).
7. That the applicant shall provide a continuous, solid wood fence around the perimeter of the subject site, connecting to the subject residence.
8. Any violation of the provisions set-forth in Section 16.69.020-Home Occupation Permits associated with this application may result in revocation. Grounds for revocation are described in Section 16.69.020(H) of the Happy Valley LDC.

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**Vicinity Map
15273 SE Francesca Lane**



Location of Aerial Map

EXHIBIT # 2

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CITY OF HAPPY VALLEY
16000 SE Misty Drive
Happy Valley, OR 97086
Phone: 503-783-3800
Fax: 503-658-5174
Web: www.ci.happy-valley.or.us

**CLASS B
HOME OCCUPATION PERMIT**

PLEASE COMPLETE THE ATTACHED QUESTIONNAIRE

Location of Home Occupation: (SITE ADDRESS)

15273 SE Francesca Lane Happy Valley, OR 97086

Description of Proposed Home Occupation:

Adult Foster Home

Wondwesen Tefera

Name of Applicant

Same as Business Address

Address of Applicant

503-334-9016

Phone Number of Applicant

Name of Property Owner: Lisa Ephrem

Address of Property Owner: 15624 Chelsea Morning Dr. Happy Valley, OR 97086

Phone Number of Property Owner: 503-560-0878

A Class B home occupation permit will be processed by means of a quasi-judicial procedure, and is subject to review by the Planning Commission, per the requirements of Chapter 16.48 (Administrative Procedures).

By signing below, I acknowledge that the proposed home occupation is in conformance with the General Requirements of Section 16.69.020 of the City of Happy Valley Development Code, and hereby grant right of entry for site inspection by City Staff or their designees. I further acknowledge that this permit is valid as long as an active business license is maintained and renewed annually with the City of Happy Valley. I understand the City may revoke a home occupation approval if the conditions of approval have not been complied with or the Class B home occupation is being conducted in a manner contrary to Section 16.69.020.

SIGNATURES:

X Wondwesen Tefera

X Lisa Ephrem (Landlord)

**Required
Attachments:**

- ☐ Mailing labels for abutting properties/homes
- ☒ Application Fee \$750.00
- ☐ Business License \$50.00

YOUR APPLICATION MAY NOT
BE ACCEPTED IF ALL
REQUIRED
ATTACHMENTS ARE NOT
INCLUDED WITH THIS FORM

FOR OFFICE USE ONLY:

Date Received: JAN 22 2010

Amount Paid: \$750.00

Receipt # 12411 CITY OF HAPPY VALLEY

ZONING:

R-15

- ☐ Approved #12E36DC00400
- ☐ Denied
- ☐ Current Business License # 000567

PERMIT # HOB- 01-10

Staff Signature: [Signature]

Date 1-25-10

EXHIBIT # 3

**CITY OF HAPPY VALLEY
HOME OCCUPATION PERMIT QUESTIONNAIRE**

*Please complete and submit with your Home Occupation Permit application
Page 1 of 2*

- | | YES | NO |
|---|-------------------------------------|-------------------------------------|
| 1. Are you owner of the property? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 2. If you are NOT the owner, have you attached to this form an authorization Letter from the property owner or the owner's representative? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 3. Have you attached mailing labels for all abutting properties? (not necessary for multi-family units i.e. apartments) | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 4. Is there any evidence or visible display of your business from the outside of the home? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 5. Have you made any structural alterations or additions that will affect the primary use of the home or garage that would effect the building code classification? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 6. Does your home occupation violate any conditions of development? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 7. Does your home occupation (including storage) use more than 50% of the total floor area of the home (including the garage)? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 8. Is your home occupation located in the primary house, attached or detached garage or an approved accessory dwelling unit? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 9. Do you have any customers between the hours of 10:00 pm and 7:00 am? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

STORAGE

- | | | |
|---|--------------------------|-------------------------------------|
| 10. Do you store any items for your home occupation outside? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 11. Is the storage of these items visible from the street or from adjacent homes? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 12. Do you store any hazardous materials on site as part of your home occupation? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

EMPLOYEES

- | | | |
|---|-------------------------------------|-------------------------------------|
| 13. Do you employ more than one full time employee on the site? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| If so, how many? <u>1-3</u> | | |
| Are any of these employees family members? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| If so, how many? _____ | | |
| Do any of these employees report to work at the site? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| If so, how many? _____ | | |
| 14. Do your employees pick up or deliver items to the site? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 15. Do you use your home for assembly of employees for instruction or dispatch? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Justin Popilek

From: Wondwesen Tefera [teferaafh@gmail.com]
Sent: Friday, January 22, 2010 5:43 PM
To: Justin Popilek
Subject: Tefera AFH
Attachments: Tefera AFH House Rules.docx

Hi Justin, It was nice talking to you this afternoon. I am just following up with our conversation about the Adult Foster Home at Francesca Lane. My goal at my house is enhancing the quality life for our Individual with Developmental Disabilities. This is individuals will be referred to me 100% by Oregon Department of Human Services which is administrated by Clackamas county. The goal is to include them in to our community so they dont have to live in segregated or where they will be exposed for some danger. I love to be part of this community and willing to give for anyone who likes to tour my house if someone want know more .

I will provide a healthy and safe living environment and we will live as one family. Therefore, every day I will be with them, in some case I may have help from caregivers. These individuals will not be left alone outside the house or in the house, in most cases they will be indoor and are supervised at all time. This home is going be 100% drug, alcohol, tobacco and weapons free. Please see my attached house rule. If you have more questions you can reach me at 503-334-9016 or you can also contact Lori Leskovec AFH Licenser 503-723-4880.

Thank you again.

Wondwesen Tefera (Wonde)

Tefera AFH House Rules

- ❖ No Resident shall have in their possession any gun, knife, alcohol, drugs, or pornography at any time in the home.
- ❖ There shall be no searing, profanity, name calling, or violence of any kind in the home
- ❖ Smoking is not allowed in the home under any circumstances. Residents who smoke will be encouraged to quit or will only be allowed to smoke near shed. All smoking refuse must be properly disposed off.
- ❖ Use of the phone is allowed for any reason for local calls only before 9:00PM. After 9:00PM phone use by residents will be for emergencies only.
- ❖ Meals will be served three (3) times per day seven (7) days per week. There will be snacks served, when available, between each meal and at 8:30PM.
- ❖ Kitchen is open only under direct supervision of staff, hands are washed and residents clean up after themselves. Otherwise, the kitchen remains locked at all times.
- ❖ Food and drinks are only allowed in the dining area.
- ❖ Bathing is recommended to be done at least four times per week.
- ❖ All residents will be at home not later than 9:00PM daily.
- ❖ All residents will be encouraged to be in their designated rooms no later than 10:00PM daily.
- ❖ All lights, Televisions, and other electronics will be tuned off no later than 11:00PM
- ❖ Visiting hours are 10:00 AM through 8:00PM daily.

Resident Signature _____ Date _____

Case Manager Signature _____ Date _____

Provider Signature _____ Date _____

CITY OF HAPPY VALLEY

16000 SE MISTY DRIVE
HAPPY VALLEY, OREGON 97086
(503) 783.3800
FAX: (503) 658.5174

NOTICE

NOTICE IS HEREBY GIVEN that the Happy Valley Planning Commission will hold a public hearing on the 9th day of March, 2010 at the hour of 7:00 p.m. at the City of Happy Valley City Hall, 16000 SE Misty Drive, in the City of Happy Valley, Oregon, in regard to the following matter:

DOCKET
NUMBER

HOB-01-10

Tefera Wondwesen, applicant, is requesting approval of a Class B Home Occupation Permit to operate an adult foster home serving clients who are developmentally disabled within a single family residence located at 15273 SE Francesca Lane (just north of the intersection of Francesca Lane and Frye Street). The subject property is further described as Clackamas County Assessor Map No. 12E-36DC: Tax Lot 400.

The Planning Commission may make a recommendation to approve, approve with conditions or deny an application for a Class B Home Occupation Permit in accordance with the criteria of the City of Happy Valley Comprehensive Plan, and Section 16.69.020 of the City of Happy Valley Land Development Code. All written comments must be received by the City of Happy Valley, 16000 SE Misty Drive, Happy Valley, OR 97086 by 5:00 p.m., on Wednesday, February 24, 2010.

Testimony should pertain to the applicable criteria. The decision will be made in accordance with the said criteria, and may be appealed to the City Council. Failure to raise an issue in writing prior to or before the close of the written comment period or failure to provide sufficient specificity at the public hearing to afford the Planning Commission an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based upon that issue. The applicant and any person who submits written comments shall receive notice of the decision.

The failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow this Commission to respond to the issue precludes an action for damages in circuit court.

The decision-making criteria, application, and records concerning this matter are available at the City of Happy Valley City Hall at the above address during working hours (8:00 a.m. to 5:00 p.m. weekdays), please call for an appointment. For additional information, contact Michael D. Walter, AICP at the above address and phone number.

The meeting site is accessible to handicapped individuals. Assistance with communications (visual, hearing) must be requested 72 hours in advance by contacting Marylee Walden, City Recorder at the above phone number.



Michael D. Walter, AICP
Planning Director

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**CITY OF HAPPY VALLEY
STAFF REPORT TO THE PLANNING COMMISSION**

MARCH 9, 2010

**MUNICIPAL CODE TEXT AMENDMENTS
(ADMINISTRATIVE AMENDMENTS)**

FILE NUMBER: LDC-05-09

I. GENERAL INFORMATION:

The following proposed administrative amendments represent City initiated amendments to a single Comprehensive Plan Policy (Policy 77); Title 3 (Revenue and Finance); Title 15 (Building and Construction); and, Title 16 (Development Code). The proposed changes are presented either as corrections necessary due to past amendments, responses to issues identified by staff, or responses to issues identified by property owners, consultants and legal counsel.

EXHIBITS:

1. Staff Report and Findings of Fact
2. Public Notice

II. PROPOSED AMENDMENTS:

(Language to be omitted is ~~struckthrough~~, proposed language additions are in **bold underline**)

DRAFT

COMPREHENSIVE PLAN POLICIES:

[...]

Policy 77: New individual onsite subsurface sewage disposal systems may be installed at any time to replace an existing but failing system within an existing lot of record, but may not be utilized to serve parcels or lots created by any land division, or to

16000 SE Misty Drive
Happy Valley, Oregon 97086
Telephone: (503) 783-3800 Fax: (503) 658-5174
Website: www.ci.happy-valley.or.us

Preserving and enhancing the safety, livability and character of our community

serve any new non-residential development. However, if public sanitary sewer service is available within 5300 feet of any property line of an existing lot of record containing an existing failing system, and capable of serving the site of the failing system with a regular or gravity hookup, sanitary sewer service shall be extended to the subject site in lieu of utilization of a new replacement individual onsite subsurface sewage disposal systems.

MUNICIPAL CODE SECTIONS:

TITLE 3 REVENUE AND FINANCE

Chapter 3.04 SYSTEM DEVELOPMENT CHARGES

3.04.030 Definitions.

For purposes of this chapter the following mean:

Application. The written request by an Applicant for a Building Permit.

Average Weekday Trips. The average weekday trip rate is the weighted weekday (Monday through Friday) average vehicle trip generation rate during a 24-hour period.

Building Permit. Permit issued by the City Building Official pursuant to the State of Oregon Structural Specialty Code or as amended, and the State of Oregon Residential Specialty Code or as amended. In addition, Building Permit shall mean the Manufactured Home Installation Permit issued by the City Building Official, relating to placement of manufactured homes in the City.

Capacity. The maximum rate of flow at which persons or vehicles can be reasonably expected to traverse a point or uniform segment of a lane or roadway during a specified time period under prevailing roadway, traffic, and control conditions, usually expressed as vehicles per hour or persons per hour. (Capacity is frequently increased by methods such as the addition of travel lanes, right turn or left turn refuges, improved width, hazard elimination, alignment or other geometric characteristics of the roadway, signalization or signalization improvements such as synchronization).

“Capital improvements.” means ~~p~~**Public** facilities or assets used for any of the following:

1. Storm sewers, including drainage and flood control;
2. Transportation, including but not limited to roads, streets, sidewalks, trails, paths, bike paths, traffic signals and control devices, street lights, street trees, public transportation, vehicle parking and bridges;
3. Parks and recreation, which may include but are not limited to, mini neighborhood parks, neighborhood parks, community parks, metropolitan parks and other recreational facilities;
4. Water supply, treatment and distribution (it is noted that these public improvements are provided by the Mt. Scott water district **Sunrise Water Authority**);

5. Sanitary sewers, including collection and transmission (it is noted that these public facilities are provided by Clackamas County service district 1).

“Development” means conducting a building or mining operation or making a physical change in the use or appearance of a structure or land, which increases the usage of any capital improvements or which creates the need for additional capital improvements; and creating or terminating a right of access.

Development. All improvements on a site, including buildings, other structures, parking and loading areas, landscaping, paved or graveled areas, and areas devoted to exterior display, storage or activities which has the effect of generating additional weekday or weekend trips. Development includes improved open areas such as plazas and walkways, but does not include natural geologic forms or unimproved land.

Gross Floor Area (GFA). The sum (in square feet) of the area of each floor level in the building, including cellars, basements, mezzanines, penthouses, corridors, lobbies, stores and offices, that are within the principal outside faces of exterior walls, not including architectural setbacks or projections. Included are all areas that have floor surfaces with clear standing head room (6 feet, 6 inches minimum) regardless of their use. If a ground-level area, or part thereof, within the principal outside faces of the exterior walls is not enclosed, this GFA is considered part of the overall square footage of the building. However, unroofed areas and unenclosed roofed-over spaces, except those contained within the principle outside faces of exterior walls, should be excluded from the area calculations. For purposes of trip generation and parking generation calculations, the GFA of any parking garages within the building should not be included within the GFA of the entire building. The unit of measurement for office buildings is currently GFA; however, it may be desirable to also obtain data related to gross rentable area and net rentable area. With the exception of buildings containing enclosed malls or atriums, GFA is equal to gross leasable area (GLA, explained next) and gross rentable area.

Gross Leasable Area (GLA). The total floor area designed for tenant occupancy and exclusive use, including any basements, mezzanines, or upper floors, expressed in square feet and measured from the centerline of joint partitions and from outside wall faces. For purposes of trip generation and parking generation calculations, the floor area of any parking garages within the building should not be included within the GLA of the entire building. GLA is the area for which tenants pay rent; it is the area that produces income. In the retail business, GLA lends itself readily to measurement and comparison; thus, it has been adopted by the shopping center industry as its standard for statistical comparison. Accordingly, GLA is used for shopping centers. For strip centers, discount stores and freestanding retail facilities, GLA usually equals GFA.

“Improvement fee.” means a fee for costs associated with capital improvements to be constructed after the date the fee is adopted pursuant to further city ordinance or resolution.

ITE Trip Generation Manual. The most recently published edition of the manual entitled Trip Generation, published by the Institute of Transportation Engineers, including any and all supplements or guides published in conjunction with the Trip Generation Manual.

“Land area.” ~~means~~ **The** area of a parcel of land as measured by projection of the parcel boundaries upon a horizontal plane with the exception of a portion of the parcel within a recorded right-of-way or easement subject to a servitude for a public street.

“Mixed use development.” means a A development that includes a combination of both residential uses and commercial or office uses, or a combination of commercial, office, institutional, or light industrial uses.

New Development. Development on any site which increases overall trip generation from the site according to the Trip Generation Manual, the City’s Municipal Code or the Joint City/County TSDC Ordinance. New development for purposes of this Chapter includes remodeling to the extent that it generates additional trips.

“On-site.” ~~means~~ **Located** on or adjacent to property that is the subject of development approval. Traffic signals and left turn lanes in the middle of the street providing direct access to the development are considered on-site improvements. In determining accountability for half-streets, ‘on-site’ means that half of the road directly adjacent to the property. A road which touches a property only through its cross section is not adjacent to that property.

“Owner.” ~~means~~ **The** owner or owners of record title or the purchaser or purchasers under a recorded sales agreement, and other persons having an interest of record in the described real property.

“Parcel of land.” means a A lot, parcel, block or other tract of land that is occupied or may be occupied by a structure or structures or other use, and that includes the yards and other open spaces required under the zoning, subdivision or other development ordinances, resolutions or regulations.

“Qualified public improvement.” ~~—~~ **An increased capacity facility or capital improvement that is required as a condition of development approval, identified in a capital improvement plan or project methodology, and is required to be constructed to larger size or greater capacity than is necessary for the particular development project to which the improvement fee is related, per the provisions of** shall have the meaning established in ORS 223.304(3).

“Reimbursement fee.” means a A fee **based on existing public facilities constructed with public funds since the inception of a System Development Charge program that have a reserve capacity available for use by future development** ~~for costs associated with capital improvements constructed or under construction on the date the fee is adopted pursuant to this chapter or another city ordinance or resolution.~~

“System development charge.” means a A reimbursement fee, an improvement fee, or a combination of such fees, assessed or collected at any of the times specified by the city, which may include but not necessarily be limited to at the time of issuance of a development permit or building permit, or simultaneous with the signing of a planned unit development agreement or subdivision development agreement. It shall also include that portion of a storm sewer system connection charge that is greater than the amount necessary to reimburse the city for its average cost of inspecting and installing connections with storm sewer facilities. “System development charge” does not include fees assessed or collected as part of a local improvement district or a

charge in-lieu-of a local improvement district assessment, or the cost of complying with requirements or conditions imposed by a land use decision.

TITLE 15 BUILDING AND CONSTRUCTION

15.04.010 Planning review fee.

The city may collect ~~authorizes the collection~~ a planning review fee or the purpose of off-setting the costs associated with the review of building permits by the planning department for compliance with the ~~LDO~~ Land Development Code (LDC) and any applicable development agreements or approvals. (Ord. 152 § 1, 1996)

[...]

15.04.100 Plans and permits.

A. Issuance.

1. The application, plans, specifications, computations and other data filed by an applicant for a building permit shall be reviewed by the building official. ~~Such~~ The plans may be reviewed by other city departments of this jurisdiction to verify compliance with any applicable laws or permits ordinances. If the building official finds that the work described in an application for a building permit and the plans, specifications and other data filed with the ~~such~~ application conform to the requirements of this chapter and other pertinent applicable laws and ordinances permits, and that the all required fees have been paid, the building official shall issue a the building permit therefor to the applicant;

2. When the building official issues the permit where plans are required, the building official shall endorse in writing or stamp the plans and specifications "Approved." ~~Such~~ The approved plans and specifications ~~shall may~~ not be changed, modified or altered without authorizations from the building official, and all work regulated by the building official and this chapter shall be done in accordance with the approved plans;

3. The building official may issue a permit for the construction of part of a building or structure before the ~~entire~~ all plans and specifications for the whole building or structure have been submitted or approved, provided adequate information and detailed statements have been filed complying with all pertinent applicable requirements of this chapter. The issuance of a partial permit shall does not constitute ~~or~~ and may not be construed as an assurance that the permit for the entire building or structure will be granted. The holder of a partial permit proceeds with such work at the holder's own risk.

B. Retention of Plans. One set of approved plans, specifications and computations shall be retained by the building official for a period of not less than ninety (90) days from date of completion of the work covered in it; and ~~one~~ by the plans, specifications and computations. One set of approved plans, and specifications and computations shall be returned to the applicant; and shall must be kept on the site of the building or work at all times during which the authorized work is in progress.

C. Validity of Permit.

1. The issuance ~~or granting~~ of a permit or approval of plans, specifications and computations **does not and** shall not be construed to be a permit for, or an approval of, **authorize** any violation of any of the provisions of this chapter or of any other ordinance of this jurisdiction or any other federal, state or local law, statute, rule, regulation or Oregon Specialty Code;

2. The issuance of a permit based on plans, specifications and other data shall ~~does~~ not prevent the building official **thereafter** from ~~thereafter~~ requiring the correction of errors in such plans, specifications and other data, or ~~from to~~ preventing building operations being carried on thereunder when in violation of this chapter or of any other ordinances of this jurisdiction;

3. The issuance of a permit based on plans, specifications and other data shall ~~is~~ not be **and shall not be construed as** a guarantee by the city or the building official of the soundness of such plans or specifications, and shall not be a basis for imposing liability upon the city or any of its agents or employees, specifically including the building official.

D. Not Transferable. Absent express **written** approval of the building official, a permit issued to one person or firm is not transferable and shall not permit any other person or firm to perform any work under such **the** permit.

E. Expiration of Plan Reviews. An application for which ~~no a~~ permit is **not** issued within one hundred eighty (180) days following the date of the application shall expire by limitation and plans and other data submitted for review **with the application** may thereafter be returned to the applicant or destroyed by the building official. The building official may extend the time for action by the applicant **issuing a permit** for a period not exceeding one hundred eighty (180) days **upon written** request by the applicant showing that circumstances beyond the **applicant's** control of the applicant have prevented **the applicant from providing information or taking other action necessary to allow the building official to complete review of the application and issue the permit** action from being taken. No ~~An~~ application shall ~~may not~~ be extended more than once. In order to renew action on an application after expiration, the applicant shall resubmit plans and pay a new plan review fee, **inclusive of the difference in cost between previously paid fees and charges and any applicable updated fees and charges.**

F. Permit Expiration, Extension and Reinstatement.

1. Every permit issued by the building official under the provisions of this chapter shall expire by limitation and become null and void if the building or work authorized is not commenced within the time limitations set forth in this section;

2. Every permit issued by the building official shall expire by limitation and become ~~null and~~ void if the building or work authorized by such **the** permit is not commenced within one hundred eighty (180) days from the date such **the** permit is issued, or if the building or work authorized by such **the** permit is suspended or abandoned at any time after the work is commenced for a period of one hundred eighty (180) days. The work shall not be considered suspended or abandoned where the permittee has pursued activities deemed by the building official, **at the building official's sole discretion,** to indicate the **an** intent to start, **continue** and complete the project. The building official may require the permittee to document these activities-;

3. Except as provided in Section 15.04.100.G.1 Every permit issued by the building official ~~shall expire~~ by limitation and will become null and void twenty-four (24) months after the date of permit issuance the permit was issued. If the building or work authorized by such the permit has not received final inspection approval prior to the permit expiration date, all work shall stop until a new permit is obtained for the value of the work remaining unfinished.

G. Exception.

1. At the time of permit issuance Upon written request from the permittee, the building official may approve an additional period exceeding twenty-four (24) months for completion of work to complete the work on an active permit when the permittee can demonstrate that the complexity or, size, market or financing conditions associated with of the project makes completing the project within the initial twenty-four (24) months unreasonable unlikely. However, approval of an extension under this section shall expire after an additional 24 months. After expiration of the total four-year (48-month) permit approval period, re-submittal of substantially the same building permit will require payment of the difference in cost for any increase in building permit fees, plan review fees, planning fees, system development charges (SDC's), new fees, etc., between the amount paid at the original submittal and re-submittal. Substantially different building plans shall be evaluated for new building permit fees, plan review fees, planning fees, SDC's, etc. by the building official at the time of submittal. The building official has sole discretion to determine whether the resubmitted plans are substantially the same or substantially different.

2. Any permittee holding an unexpired permit may apply for an extension of the time within which work is to be completed under that permit when the permittee is unable to complete work within the time required by this section for good and satisfactory reasons. The building official may extend the time for action by the permittee for a period not exceeding one hundred eighty (180) days on written request by the permittee showing that circumstances beyond the control of the permittee have prevented work from being completed. No permit shall be extended more than once;

Where ~~When~~ a permit has expired, the permit can may be reinstated and the work authorized by the original permit can may be recommenced, provided the following are met:

a. The specialty code under which the original permit was issued and other ordinances ~~which that~~ are enforced by the building official have not been amended in any manner ~~which that~~ affects the work authorized by the original permit;

b. No changes have been made or will be made in the original plans and specifications for such work; and,

c. If the original permit expired less than one year from the request to reinstate the fee for a reinstated permit shall be one-half the amount required for a new building permit. For all other fees and charges, the applicant is responsible for payment of the difference in cost between previously paid fees and charges and any applicable updated fees and charges.

3. Where When the request for reinstatement does not comply with the preceding criteria in Section 15.04.100.G.2, a new permit, at full building permit fees, shall be is required. (Ord. 153 § 8, 1996)

H. Temporary and Final Occupancy Permits.

1. A person seeking a final occupancy permit must provide all private and public improvements required by federal, state and local regulations, including satisfaction of all conditions of approval from any applicable land use decision(s). The improvements may include, but are not limited to: public and private street improvements including improved sections, curb, gutter, sidewalk, planter strip construction and vegetation, driveways, disabled person access and signage; direct pedestrian access; bicycle parking facilities; vehicular and delivery parking and maneuvering surfaces; commercial/industrial drive aisles; open space areas; stormwater detention/retention facilities; wetland mitigation; hardscaping; landscaping; parking lot lighting; signage, etc.

2. A person may receive a temporary occupancy permit when all structural components have been constructed, inspected and authorized by the building official or the official's designee. He structural components include all required Level 1 facilities: access; public sewer; public water; fire, life and safety provisions, etc. Temporary occupancy permits are subject to the provisions of Section 15.04.100.F.

3. A person seeking a final occupancy permit for financing or market purposes; for approval of a building shell that will have future tenant improvements, or for other similar reasons may apply for an exception under Section 15.04.100.G. The exception may be granted by the City Manager or the Manager's designee upon submittal of the exception application, application fee and an irrevocable standby letter of credit in an amount not less than 125 percent of the value of the incomplete improvements based on contractor estimates for all remaining private and public improvements not completed at the time of issuance of the final occupancy permit. The contractor estimates must be reviewed and approved by the building official, planning official or city engineer before an occupancy permit may be issued under this subsection. In the event that the person does not complete the remaining improvements within 180 days, the City shall begin proceedings to utilize the funds available through the letter of credit to complete all the remaining improvements.

TITLE 16 DEVELOPMENT CODE

[...]

Chapter 16.12 Definitions

Block frontage. All of the property fronting on one side of a street that is between intersecting or intercepting public or private streets, or that is between a public street and a natural water feature, or end of a dead end street. An intercepting street determines the boundary of the block frontage only on the side of the street that it intercepts.

[...]

Congregate Housing. Multi-unit housing with self-contained apartments that contain cooking facilities which support independent lifestyles for those that have life-function disabilities due to age, medical, or mental condition, which do not require residential care or skilled nursing services. Congregate housing provides varying levels of support services, such as meals, laundry, housekeeping, transportation, and social, recreation, cultural and education activities. The full range of services normally associated with a residential care facility, are not provided in association with congregate housing.

[...]

Continuing Care Retirement Community (CCRC). An age-restricted development that provides a continuum of accommodations and care, from independent living to convalescence care and long-term skilled nursing care, and enters into contracts to provide lifelong care. A CCRC typically includes a full range of living arrangements from independent living, congregate housing, residential care and skilled nursing and sometimes hospice care. CCRCs provide a range of ancillary facilities and services such as health care, meals with common dining facilities, physical therapy, education, recreation, and other social and cultural activities.

[...]

Skilled Nursing Facility. Skilled nursing facilities provide 24 hour direct medical, nursing and other health services. Registered nurses, licensed practical nurses, and nurses' aides provide services prescribed by resident(s) physician(s). Skilled nursing is for those persons who need health supervision but not hospitalization. The emphasis of this use is on nursing care, but convalescent, restorative physical, occupational, speech, and respiratory therapies are also provided. The level of care may also include specialized nursing services such as specialized nutrition, rehabilitation services and monitoring of unstable conditions. The term skilled nursing facility is also synonymous with the terms nursing facility and nursing home.

[...]

16.22.060 Mixed use residential—Multifamily (MUR-M and MUR-X).

A.Purpose.

1. Mixed use residential will promote compact form, and residential and commercial or residential and office mixed vertically, in addition to across the district. The multifamily sub-area provides for a range of densities, each of which should be shown on the master plan map. The multifamily sub-areas allow for retail uses that are meant to provide services to local residents, not attract outside traffic. The density requirements and minimum/maximum lot sizes are meant as a guide, and will vary based on the amount of unbuildable lands removed from gross acres. The density is calculated by averaging density for the residential district area identified in the master plan. Therefore, some lots may be smaller than the lot sizes given below. Minimum densities are provided to comply with the Urban Growth Management Functional Plan, Title 1 requirements.
2. MUR-X Mixed Use Buildings with Residential Emphasis. Residential and retail combinations with the primary use of the building being residential. Permitted commercial uses shown on Table 16.22.060-1.

B. Permitted Uses. Table 16.22.060-1 identifies the land uses that are allowed in the MUR-M and MUR-X Districts.

Table 16.22.060-1 Mixed Use Residential—Multifamily (MUR-M and MUR-X) Permitted Uses

P=Permitted; C=Conditional Use; X=Prohibited

| Land Use | MUR-M Multifamily | MUR-X Mixed Buildings |
|--|----------------------|-----------------------------|
| Residential | | |
| Single-family detached dwellings | X | X |
| Attached dwellings, (townhouses, attached duplex, rowhouses) | P | P |
| Multifamily dwellings | | |
| Low | P | P |
| Medium | P | P |
| High | P | P |
| Senior housing | P | P |
| <u>Skilled nursing facility</u> | <u>C</u> | <u>C</u> |
| <u>Congregate housing</u> | <u>C</u> | <u>C</u> |
| Accessory dwelling units (per Section 16.44.050) | X | X |
| Home Occupation (per Section 16.69.020) | P | P |
| Neighborhood Commercial Uses | | |
| Coffee shops, cafes, sandwich shops and delicatessens, restaurants (no drive through service allowed) | P ¹ | |
| Florists | P ¹ | |
| Grocery, food, specialty foods, and produce stores | P ¹ | |
| Laundromats and dry cleaners | P ¹ | |
| Personal services (e.g., barbershops, hair salons, spas) | P ¹ | |
| Yogurt and ice cream stores | P ¹ | |
| Video rental stores | P ¹ | |
| Retail and service commercial uses similar to those above but not listed elsewhere in this section upon administrative determination through the design review process | P ¹ | |
| Commercial—Retail Uses MUR-X | | |
| Art and craft supply stores, studios | | P |
| Bakeries | | P |
| Banks, savings and loan associations, loan companies, ATM (not drive in or drive through) | | P |
| Bicycle sales, supplies, repair service | | P |
| Book stores | | C |
| Coffee shops, cafés, sandwich shops and delicatessens (no drive through service allowed) | | P |
| Drug stores | | P |
| Dry cleaners and tailors | | P |
| Florists | | P |
| Gift stores | | P |
| Grocery, food, specialty foods, and produce stores | | P |
| Hotels | | P |
| Indoor health and recreation facilities, such as racquetball court, gymnasiums, health and exercise spas, swimming pools, and similar uses and associated facilities | | C |
| Interior decorating shops, sales and service | | P |
| Laundromats | | P |

| Land Use | MUR-M Multifamily | MUR-X Mixed Buildings |
|--|----------------------|-----------------------------|
| Music shops, sales and service | | P |
| Optometry and optical goods, sales and service | | P |
| Personal services (e.g., barbershops, hair salons, spas) | | P |
| Photo finishing, photography studios | | P |
| Post offices | | P |
| Rental stores, without outdoor storage | | P |
| Restaurants, full service | | C |
| Shoe sales and repair stores | | P |
| Sporting goods, sales and service | | P |
| Stationary stores | | P |
| Taverns, bars and cocktail lounges (1,500 feet from school uses, public parks and churches) | | C |
| Yogurt and ice cream stores | | P |
| Video rental stores | | C |
| Retail and service commercial uses similar to those above but not listed elsewhere in this section upon administrative determination through the design review process | | P ² |
| Commercial—Offices | | |
| Professional and administrative offices | C ¹ | P |
| Medical office buildings | C ¹ | P |
| Institutional | | |
| Churches, synagogues, temples or places of worship | C | C |
| Public park, usable open space | C | C |
| Private and public schools (includes day care) | C | C |
| Other | | |
| Utility facilities (telecommunication, pump stations, substations) | C | C |
| New streets and roads, including the extensions of existing streets and roads, that are included with the adopted transportation system plan | P | P |
| NOTES: | | |
| ¹ Neighborhood commercial use subject to the provisions of Section 16.44.080. | | |
| ² Where scale and trip generation are compatible with residential development. | | |

[...]

16.23.010 Mixed Use Commercial and Employment Districts.

A.Purpose.

1. Mixed Use Commercial (MUC). Mixed use commercial will provide for convenience commercial needs of residential neighborhoods and office workers in

locations adjacent to and mixed in with residential and office areas. The location of services and offices near residential units and major transportation networks should promote use of alternative modes of transportation such as bus ridership, bicycle and pedestrian activity. Retail uses should be primarily located on the ground floor to encourage an interesting and active streetscape. Buildings should be oriented towards the street or accessway with clearly marked entrances. Blank frontage walls at street level are discouraged. Development boundaries and patterns are not defined by type of use (i.e., retail and office); instead the district allows a variety of permitted uses to occur throughout the commercial district. The commercial uses are meant to provide a concentration of commercial and office uses to create an active area.

2. Mixed Use Employment (MUE). The mixed use employment district will provide for development of office, employment and medium density residential uses. The MUE neighborhood commercial subdistrict provides for neighborhood scale retail needs.

3. MUE Neighborhood Commercial (MUE-NC) subdistrict. In order to provide retail uses which serve the surrounding neighborhoods and employment areas of the MUE district, the neighborhood commercial subdistrict establishes uses and standards for the development of commercial and residential uses with good visibility from arterials, collectors and local streets within the MUE district.

B. Permitted Uses. Table 16.23.010-1 identifies the land uses that are allowed in the MUC, MUE and MUE-NC Districts.

Table 16.23.010-1 Mixed Use Districts (MUC, MUE, MUE-NC) Permitted Uses

P=Permitted; C=Conditional Use; X=Prohibited

| Use | MUC | MUE | MUE—NC Subdistrict |
|--|-----|----------------|-----------------------|
| Commercial—Retail Uses | | | |
| Art and craft supply stores, studios | P | P ¹ | P |
| Bakeries | P | P ¹ | P |
| Banks, savings and loan associations, loan companies, ATMs | P | P ¹ | P |
| Barber shops, beauty salons | P | P ¹ | P |
| Bed and breakfast inns | P | P ¹ | P |
| Bicycle sales, supplies, repair service | P | P ¹ | P |
| Book stores | C | C | C |
| Camera stores | P | P ¹ | P |
| Coffee shops, cafés, sandwich shops and delicatessens | P | P ¹ | P |
| Drug stores | P | P ¹ | P |
| Dry cleaners and tailors | P | P ¹ | P |
| Florists | P | P ¹ | P |
| Hardware and garden supplies | P | P ¹ | P |
| Home furnishing stores | P | P ¹ | P |
| Gift stores | P | P ¹ | P |
| Grocery, food, specialty foods, and produce stores | P | P ¹ | P |
| Hotels | P | P ¹ | P |
| Indoor health and recreation facilities, such as racquetball | P | P ¹ | P |

| Use | MUC | MUE | MUE—NC Subdistrict |
|--|-----|----------------|-----------------------|
| court, gymnasiums, health and exercise spas, swimming pools, and similar uses and associated facilities | | | |
| Exercise and tanning studios | P | P ¹ | P |
| Interior decorating shops, sales and service | P | P ¹ | P |
| Laundromats | P | P ¹ | P |
| Music shops, sales and service | P | P ¹ | P |
| Optometry and optical goods, sales and service | P | P ¹ | P |
| Photo finishing, photography studios | P | P ¹ | P |
| Rental stores, without outdoor storage | P | P ¹ | P |
| Restaurants full service | P | P ¹ | P |
| Restaurants—Drive-through | P | C | C |
| Apparel and secondhand stores | P | P ¹ | P |
| Service stations | C | C | C |
| Shoe sales and repair stores | P | P ¹ | P |
| Sporting goods, sales and service | P | P ¹ | P |
| Stationary stores | P | P ¹ | P |
| Taverns, bars and cocktail lounges (prohibited 1,500 feet from school uses) | C | C | C |
| Theaters or assembly halls | C | C | C |
| Yogurt and ice cream stores | P | P ¹ | P |
| Vehicular service | P | P ¹ | P |
| Veterinarian services and pet supplies | P | P ¹ | P |
| Video rental stores | C | C | C |
| Retail and service commercial uses similar to those above but not listed elsewhere in this section upon administrative determination through the design review process | P | P ¹ | P |

| | | | |
|---|-----------------|-----------------|-----------------|
| Commercial—Offices | | | |
| Professional and administrative offices | P | P | P |
| Medical office buildings | P | P | P |
| Residential | | | |
| Low Density ² | P | P | P |
| Medium and High Density ³ (Note: mixed-use buildings with residential and commercial are allowed in addition to single-use residential buildings.) | P | X | X |
| Senior housing | P | P | P |
| <u>Skilled nursing facility</u> | <u>P</u> | <u>P</u> | <u>P</u> |
| <u>Congregate housing</u> | <u>P</u> | <u>P</u> | <u>P</u> |
| Home occupation (Section 16.69.020) | P | P | P |
| Industrial | | | |
| Manufacturing and production | X | P | X |
| Industrial services | X | P | X |
| Flex-space | X | P | X |

| Use | MUC | MUE | MUE—NC Subdistrict |
|---|------------------------|------------------------|------------------------|
| Wholesale sales | X | P | X |
| Institutional | | | |
| Churches, synagogues, temples or places of worship | C | C | C |
| Public park, usable open space | C | C | C |
| Public and private schools (includes day care) | C | C | C |
| Commercial day care centers (adult and child care facilities) | P | P ¹ | P |
| Community service | P | P | P |
| Civic Uses | | | |
| Libraries, post offices, community centers, etc. | P | P | P |
| Other | | | |
| Construction of new streets and roads, including the extensions of existing streets and roads, that are included with the adopted transportation system plan | P | P | P |
| Wireless communication facilities | Per Chap. 16.44.020 | Per Chap. 16.44.020 | Per Chap. 16.44.020 |
| NOTES: | | | |
| ¹ Use permitted according to MUE NC rules. | | | |
| ² Low density multifamily residential shall be developed in accordance with the standards of the MUR-M1 District. | | | |
| ³ Medium density multifamily residential shall be developed in accordance with the standards of the MUR-M2 District and high density multifamily residential shall be developed in accordance with the standards of the MUR-M3 District. | | | |

16.23.030 Commercial districts.

A.Purpose.

1. Community Commercial Center District (CCC). The Community Commercial Center (CCC) District is intended to provide locations or “nodes” for a relatively wide range of small businesses, services and mixed use adjacent to residential areas as a convenience to nearby residents. The CCC District is to be located and developed in a manner consistent with the Comprehensive Plan. In order to limit impacts to residential areas, new community commercial center nodes are intended to be limited in size to not more than five acres of contiguous land.

Building size is also limited to a thirty thousand (30,000) square feet footprint, and measured in accordance with requirements of Table 16.23.030-2 (Footnote 5).

Appropriate locations for community commercial center nodes are at the intersection of two arterial streets (major and minor), an arterial street and a collector street, or two collector streets.

2. Mixed Commercial Center District (MCC). This zone is intended to establish locations for the development of mixed use commercial centers providing a broad range of shopping and service requirements to meet neighborhood and city-wide needs. The Mixed Commercial Center (MCC) District, as applied in the East Happy Valley Comprehensive Plan Area, corresponds to the Damascus/Boring Concept Plan’s designation of Neighborhood Centers. These mixed use centers in the East Happy Valley Comprehensive Plan area accommodate retail services with a focus on meeting resident’s daily shopping needs. They are planned to be well served by transit and be

integrated with mixed use and higher density housing, thus supporting less auto-dependent life styles. These centers are also appropriate locations for civic uses such as post offices and branch libraries. Their design is intended to be highly pedestrian-oriented.

New mixed commercial centers are limited to an area of up to fifteen (15) acres of contiguous land and shall be developed in a manner consistent with the Comprehensive Plan, except as described in Table 16.23.030-2 (Footnote 6), within the East Happy Valley Comprehensive Plan Area. Single-use retail buildings are limited to a maximum square footage of sixty-thousand (60,000) square feet as specified in Table 16.23.030-2 (Footnote 6). Appropriate locations for mixed commercial centers are at the intersection of two arterial streets or an arterial and a major collector, preferably on streets served by transit.

All MCC developments involving five acres or more of land shall be subject to master plan review and design review. Prior to new development in an MCC District in the East Happy Valley Comprehensive Plan Area, master plan approval under Chapter 16.65 is required for the entire lot or parcel proposed for development, together with any contiguous lots or parcels owned by the same owner or entities controlled by the owner, consistent with the provisions of Table 16.23.030-2.

In the MCC District, buildings should be oriented towards the street or accessway with clearly marked entrances. Blank frontage walls at street level are discouraged. Development boundaries and patterns are not defined by type of use (for example, retail and office); instead the district allows a variety of permitted uses to occur throughout the commercial district. The commercial uses are meant to provide a concentration of commercial and office uses to create an active area.

B. Permitted Uses. Table 16.23.030-1 identifies the land uses that are allowed in the CCC and MCC Districts.

Table 16.23.030-1 Community Commercial Center and Mixed Commercial Center (CCC, MCC) Permitted Uses

P=Permitted; C=Conditional Use; X=Prohibited

| Land Use | CCC | MCC |
|-------------|-----|-----|
| Residential | | |

| Land Use | CCC | MCC |
|---|-------------------|-------------------|
| Pre-existing dwellings. Preexisting dwellings may be allowed to remodel or expand and shall not be subject to the provisions of Chapter 16.72 | P | P |
| Medium to high density residential | P ^{1, 2} | P ^{1, 3} |
| Senior housing in conjunction with nonresidential uses permitted by this title | P | P |
| <u>Skilled nursing facility</u> | <u>P</u> | <u>P</u> |
| <u>Congregate housing</u> | <u>P</u> | <u>P</u> |
| Home occupations (per Section 16.69.020) | P | P |
| Home occupations, subject to a conditional use review (per Section 16.69.020) | C | C |
| Commercial—Retail Uses | | |
| Art and craft supply stores, studios | P | P |
| Bakeries | P | P |
| Banks, savings and loan associations, loan companies, ATM (without drive-through) | P | P |
| Banks, savings and loan associations, loan companies, ATM (with drive-through) (per Section 16.44.090) | C | P |
| Barber shops, beauty salons | P | P |
| Bicycle sales, supplies, repair service | P | P |
| Book stores | P | P |
| Camera stores | P | P |
| Coffee shops, cafés, sandwich shops and delicatessens | P | P |
| Drug stores | P | P |
| Dry cleaners and tailors | P | P |
| Florists | P | P |
| Home furnishing stores | P | P |
| Gift stores | P | P |
| Grocery, food, specialty foods, and produce stores | P | P |
| Hotels | C | P |
| Indoor health and recreation facilities, such as racquetball courts, gymnasiums, health and exercise spas, swimming pools, and similar uses and associated facilities | C | P |
| Interior decorating shops, sales and service | P | P |
| Laundromats | P | P |
| Music shops, sales and service | P | P |
| Optometry and optical goods, sales and service | P | P |
| Photo finishing, photography studios | P | P |
| Rental stores, without outdoor storage | P | P |
| Restaurants—full-service | C | P |
| Restaurants—drive-through (per Section 16.44.090) | P | P |
| Secondhand stores | C | C |
| Shoe sales and repair stores | P | P |
| Sporting goods, sales and service | P | P |
| Stationary stores | P | P |
| Taverns, bars and cocktail lounges (a minimum distance of one thousand five hundred (1,500) feet from school uses) | C | C |

| Land Use | CCC | MCC |
|--|-----|-----|
| Theaters or assembly halls | C | C |
| Vehicular service | P | P |
| Video rental stores | C | C |
| Yogurt and ice cream stores | P | P |
| Retail and service commercial uses similar to those above but not listed elsewhere in this section upon administrative determination by the Planning Official. | P | P |
| Commercial—Offices | | |
| Professional and administrative offices | P | P |
| Medical office buildings, clinics and laboratories | P | P |
| Institutional | | |
| Churches, synagogues, temples or places of worship | C | C |
| Library, post office, community center, etc. | P | P |
| Public parks, usable open space | C | C |
| Public and private schools (includes commercial day care, dancing and music schools) | C | C |
| NOTES: | | |
| ¹ Residential uses on upper floors of mixed use buildings are permitted. In such cases, Notes 2 and 3 below do not apply. | | |
| ² Freestanding residential uses at densities greater than the minimum SFA density of 10 du/acre and not to exceed the maximum MUR-M2 density of 34 du/acre (10—34 du/acre) may be permitted in the CCC zone when nonresidential uses occupy the street side(s) of the parcel. The footprint of such freestanding residential uses (including associated parking and accessory uses) may not exceed 25% of the CCC zoned area of the parcel or subject property. | | |
| ³ Residential uses at MUR-M2 densities (25—34 du/acre) in conjunction with nonresidential uses are permitted by this code. The footprint of such freestanding residential uses (including associated parking and accessory uses) may not exceed 25% of the MCC zoned area of the parcel or subject property. | | |

[...]

16.25.005 Rock Creek Mixed Employment (RC-ME) District.

A.Purpose. The Rock Creek Mixed Employment (RC-ME) District permits land uses with high job densities that provide stable, family-wage employment within the City. This zone provides a mix of uses that are compatible with nearby residential, institutional and commercial uses and provide a buffer between residential and more formally “light industrial” areas to the east. Permitted uses in the Rock Creek Mixed Employment District include office, creative arts, small-scale manufacturing, research and development, and medical centers. Commercial uses are limited to those serving the primary uses of the district. A limited number of residential uses, including pre-existing dwelling units, are permitted by right.

B.Permitted Uses. Table 16.25.005 -1 identifies the land uses that are allowed in the RC-ME District.

Table 16.25.005-1 Rock Creek Mixed Employment (RC-ME) Permitted Uses

P=Permitted; C=Conditional Use; X=Prohibited

| Land Use | RC-ME |
|--|----------------|
| Residential | |
| Pre-existing dwellings. Preexisting dwellings may be allowed to remodel or expand and shall not be subject to the provisions of Chapter 16.72 ¹ | P |
| Home occupations in pre-existing dwellings | P |
| Dwelling, multifamily—Senior housing, congregate housing, continuing care retirement community, and skilled nursing facilities | C ² |
| Commercial—Retail | |
| Commercial day care | C |
| Indoor health and recreation facilities, such as racquetball court, gymnasiums, health and exercise spas, swimming pools, and similar uses and associated facilities | C |
| Parking lot (when not an accessory use) | X |
| Restaurant—Full service | P ³ |
| Retail—Sales | P ⁹ |
| Retail—Personal services | P ⁴ |
| Commercial—Office | |
| Professional and administrative offices | P |
| Medical office buildings | P |
| Industrial | |
| Industrial services—Fully enclosed | P ⁵ |
| Industrial services—Not enclosed | X |
| Manufacturing and production—Fully enclosed | P |
| Manufacturing and production—Not enclosed | X |
| Fabrication | P |
| Research and development activities | P |
| Laboratories | P |
| Repair, finishing, and testing | P |
| Assembly | P |
| Distribution activities | P ⁶ |
| Warehousing and freight movement | P ⁶ |
| Institutional | |
| Basic utilities | P |
| Colleges | C ⁷ |
| Emergency services facilities | P |
| Medical centers | P |
| Heliport | C |
| Postal service facilities | P ⁸ |
| Public parks and open space—Pedestrian amenities | P |
| Public parks and open space—Parks and recreation facilities | C |
| Public parks, usable open space | P |
| Other | |
| Agriculture—Animals, when -existing use as of June 1, 2008 | P |
| Agriculture—Animals, when accessory to a permitted industrial use | X |
| Agriculture—Animals, when new use | X |
| Agriculture—Nurseries and similar horticulture, when existing use as of June 1, 2008 | P |
| Transportation facilities (operation, maintenance, preservation, and construction in accordance with the City's Transportation System Plan) | P |
| Wireless telecommunication facilities: Wireless telecommunication facilities are subject | P |

| Land Use | RC-ME |
|--|-------|
| to the requirements of Section 16.44.020 (Wireless Communication Facilities) | |
| Any accessory use or structure, not otherwise prohibited, that the Planning Official or designee finds to be customarily accessory and incidental to a permitted use | P |
| Any use that the Planning Official or designee finds to be similar to one or more of those specified above | P/C |
| <p>NOTES:</p> <p>¹ “Pre-existing” single-family dwellings, as defined for the RC-ME District, are those structures that existed prior to June 1, 2008.</p> <p>² Assisted living and senior housing may include a range of housing type including single-family detached, single-family attached, assisted-living multifamily units, and congregate care facilities permitted on a single property to provide for a variety of dwelling units and continuous care for seniors of varying levels of health and independence.</p> <p>³ Drive-through facilities are not permitted.</p> <p>⁴ Maximum building size of twenty thousand (20,000) gross square feet.</p> <p>⁵ Outdoor storage or outdoor fleet storage not permitted.</p> <p>⁶ Permitted as an accessory use—May not exceed twenty (20) percent of the total site area.</p> | |

⁷ Use limited to public and nonprofit institutions providing technology, health sciences or creative arts education and job training. No dormitories permitted.

⁸ Fleet parking or mail processing centers not allowed. Permitted use limited to direct consumer services.

⁹ Retail sales uses may not exceed sixty thousand (60,000) square feet of gross lease area in a single building; or commercial retail uses with a total of more than sixty thousand (60,000) square feet of retail sales area on a single lot or parcel; or, on contiguous lots or parcels, including those separated only by transportation right-of-way.

[...]

16.34.075 Discretionary development standards.

There are four discretionary review processes provided in this section: subsection A of this section provides discretionary review for an applicant seeking only to partition a property; subsection B of this section provides discretionary review for an applicant who will comply with the development standards in Section 16.34.070, except that the applicant seeks to meet the mitigation requirements of that section on a different property from the property on which a HCA will be disturbed; subsection C of this section provides discretionary review for an applicant who will comply with the development standards in Section 16.34.070, except that the applicant seeks to meet the mitigation requirements of that section by proportionally varying the number and size of plants required to be planted; and subsection D of this section (Natural Resource Review) provides general discretionary review standards applicable to an applicant seeking some other type of discretionary approval of development that will disturb a Water Quality Resource or HCA.

Within HCAs that are not otherwise Water Quality Resources, applicants may choose to use the alternative discretionary development standards provided in this section rather than the development standards provided in Section 16.34.070. However, a Natural Resource Review is required for development within Water Quality Resources. All four types of discretionary reviews will be processed in accordance with the Type II procedures in Section 16.61.030.

A. Discretionary Review for Partitions. An applicant seeking to partition land in ways that do not accord with the standards established in Section 16.34.070(B)(5) may seek review under Section 16.34.075(A).

1. The applicant shall verify the boundaries of the HCAs on the property according to Section 16.34.060.
2. The applicant shall submit the following application materials:
 - a. A scale map of the entire property that includes:
 - i. Location of all High, Moderate, and Low HCA on the property;
 - ii. Location of any wetlands or water bodies on, or within two hundred (200) feet of the property, including a delineation of the Water Quality Resource Area;
 - iii. Location of 100-year floodplain and floodway boundary as defined by the Federal Emergency Management Agency (FEMA) and the area of the 1996 flood inundation; and
 - iv. A delineation of the proposed partition.
 - b. A written and documented explanation of how and why the proposed partition satisfies the approval criteria in Section 16.34.075(A)(3). Such written documentation shall include an alternatives analysis of different possible partition plans, based on the characteristics and zoning of the property.
3. Approval Criteria. A partition shall be approved under Section 16.34.075(A) provided that the applicant demonstrates that it is not practicable to comply with the partition standards in Section 16.34.070(B)(5), and that the applicant's partition plan will result in the smallest practicable percentage point difference in the percentage of HCA on the parcels created by the partition (this will minimize the amount of allowable disturbance areas within HCAs on the parcels, assuming that the development standards in Section 16.34.070 were applied to future development on such parcels).
4. Subsequent development on any parcels created by the partition and containing HCAs shall comply with all provisions of this Code, except that the map verification completed and approved as part of the partition may be used to satisfy the requirements of Section 16.34.060(C) for any such development.

B. Discretionary Review To Approve Off-Site Mitigation. An applicant seeking discretionary approval only for off-site mitigation within the same subwatershed (6th Field Hydrologic Unit Code), but who will comply with all other provisions of Section 16.34.070, may seek review under Section 16.34.075(B). An applicant who seeks to conduct the mitigation in a different subwatershed may apply for such approval under Section 16.34.075(D).

1. The applicant shall submit:
 - a. A calculation of the number of trees and shrubs the applicant is required to plant under Section 16.34.070(B)(4); and
 - b. A map and accompanying narrative that details the following:
 - i. The number of trees and shrubs that can be planted on-site,
 - ii. The on-site location where those trees and shrubs can be planted,

- iii. An explanation of why it is not practicable for the remainder of the mitigation to occur on-site, and
 - iv. The proposed location for off-site mitigation and documentation that the applicant can carry out and ensure the success of the mitigation, including documentation that the applicant possesses legal authority to conduct and maintain the mitigation, such as having a sufficient ownership interest in the mitigation site, and, if the mitigation is not within a HCA, documentation that the mitigation site will be protected after the monitoring period expires, such as through the use of a restrictive covenant.
2. Approval Criteria. Off-site mitigation shall be approved under Section 16.34.075(B) provided that the applicant has demonstrated that it is not practicable to complete the mitigation on-site and that the applicant has documented that it can carry out and ensure the success of the off-site mitigation on a property within the same subwatershed (6th Field Hydrologic Unit Code) as the related disturbed HCA, and provided that, in all cases, mitigation provided is within the City of Happy Valley City limits.
 3. Mitigation approved under Section 16.34.075(B) shall be subject to all of the requirements of Section 16.34.070(BC)(4), except for the requirements of Section 16.34.070(BC)(4)(e).

C. Discretionary Review to Approve Mitigation that Varies the Number and Size of Trees and Shrubs. An applicant seeking discretionary approval only to proportionally vary the number and size of trees and shrubs required to be planted under Section 16.34.070(BC)(4)—for example, to plant fewer larger trees and shrubs or to plant more smaller trees and shrubs—but who will comply with all other provisions of Section 16.34.070, may seek review under Section 16.34.075(C).

1. The applicant shall submit:
 - a. A calculation of the number of trees and shrubs the applicant would be required to plant under Section 16.34.070(BC)(4);
 - b. The numbers and sizes of trees and shrubs that the applicant proposes to plant;
 - c. An explanation of why the numbers and sizes of trees and shrubs that the applicant proposes to plant will achieve, at the end of the fifth year after initial planting, comparable or better mitigation results than the results that would be achieved if the applicant complied with all of the requirements of Section 16.34.070(BC)(4). Such explanation shall be prepared and signed by a knowledgeable and qualified natural resources professional or a certified landscape architect and shall include discussion of site preparation, including soil additives and removal of invasive and noxious vegetation, plant diversity, plant spacing, planting season, and immediate post-planting care, including mulching, irrigation, wildlife protection, and weed control; and
 - d. The applicant's mitigation site monitoring and reporting plan.
2. Approval Criteria. A request to vary the numbers and sizes of trees and shrubs to be planted shall be approved if the applicant demonstrates that the proposed planting will achieve, at the end of the fifth year after initial planting, comparable or better mitigation results than the results that would be achieved if the applicant complied with all of the requirements of Section 16.34.070(BC)(4). Such determination shall

take into consideration all of the information required to be submitted under Section 16.34.075(C)(1).

3. Mitigation approved under Section 16.34.075(C) shall be subject to the requirements of Sections 16.34.070(~~BC~~)(4)(d) through (4)(i), and it is recommended that such mitigation also follow the practices recommended in Section 16.34.070(~~BC~~)(4)(j).

D. Natural Resource Review (NRR). An applicant seeking discretionary approval to undertake any development activity within a Water Quality Resource or HCA that does not comply with Section 16.34.070 and is not described in Sections 16.34.075(A), 16.34.075(B) or 16.34.075(C) shall apply for a Natural Resource Review pursuant to Section 16.

34.075(D). Natural Resource Review (NRR) is the discretionary process by which the City analyzes the impacts of development on natural resources, as well as measures to prevent negative impacts, and also provides mitigation and enhancement requirements. The Planning Director may consult with a professional with appropriate expertise to evaluate an applicant's NRR application prepared under this section or may rely on appropriate staff expertise, in order to properly evaluate the report's conclusions.

1. Agency Coordination. Other state and regional agencies, including Clackamas County Service District No. 1, regulate some of the natural resources that are protected by the standards of this chapter. In order to avoid unnecessary duplication, an applicant may substitute application materials prepared for Clackamas County Service District No. 1, or another regulating agency, for the materials required by this section where these materials will provide sufficient information for the City to address the approval criteria in subsection 16.34.075(D)(3).

2. Application Requirements. The applicant shall provide all items described in Section 16.34.070(A), except that, for utility projects undertaken by public utilities across property that is not owned by the utility, the utility shall not be required to map or provide any information about the property except for the area within three hundred (300) feet of the location of the proposed disturbance area of the utility's project, and the applicant shall also provide all of the following:

a. A topographic map of the site with two-foot vertical contours in areas of slopes less than fifteen (15) percent, and at five-foot vertical contours of slopes fifteen (15) percent or greater showing a delineation of the Water Quality Resource, which includes areas shown on the Happy Valley Steep Slopes and Natural Resources Overlay Zone Map, and that meets the definition of water quality resource areas in Table 16.34.030-1;

b. Location of Title 3 Wetlands. Where Title 3 wetlands are identified, the applicant shall follow the Division of State Lands recommended wetlands delineation process. The delineation shall be prepared by a professional wetlands specialist;

c. An inventory, location and plan for removal of any existing debris and noxious materials;

d. An assessment of the existing condition of any Water Quality Resources, including an inventory and map of the existing plant communities including the number and area covered by each plant community present. A plant community is defined as a grouping of plants that often occur together growing in a uniform habitat. For each sample point, document the area covered by all species providing greater than five percent cover within the plot boundary. A ten (10) foot

radius plot for herbs (non-woody vegetation) and a thirty (30) foot radius plot for woody vegetation are required; however, plot boundaries may be adjusted to ensure that only one plant community is represented in a plot. The inventory and map shall specify cover by native species, invasive species, and noxious species.

e. **Impact Evaluation and Alternatives Analysis.** An impact evaluation and alternatives analysis is required to determine compliance with the approval criteria and to evaluate development alternatives for a particular property. The alternatives must be evaluated on the basis of their impact on Water Quality Resources and HCAs, the ecological functions provided by the resource on the property, and off-site impacts within the subwatershed (6th Field Hydrologic Unit Code) where the property is located. The impact evaluation shall include the following:

- i. Identification of the ecological functions of riparian habitat found on the property as described in Table 16.34.075-1.
- ii. An assessment of the water quality impacts related to the development, including: sediments, temperature and nutrients, sediment control, temperature control or addressing any other condition with the potential to cause the Protected Water Feature to be listed on DEQ's 303(d) list.
- iii. Evaluation of alternative locations, design modifications, or alternative methods of development to determine which options reduce the significant detrimental impacts on the HCAs and the ecological functions provided on the property. At a minimum, the following approaches must be considered:
 - (A) The techniques described in Section 16.34.050;
 - (B) Multi-story construction;
 - (C) Minimizing building and development footprint;
 - (D) Maximizing the use of native landscaping materials; and
 - (E) Minimal excavation foundation systems (e.g., pier, post or piling foundation).
- iv. Determination of the alternative that best meets the applicable approval criteria and identification of significant detrimental impacts that are unavoidable. Where Water Quality Resources are proposed to be impacted, the applicant shall also demonstrate that no practicable alternatives to the requested development exist that will not disturb the Water Quality Resource; that development in the Water Quality Resource has been limited to the area necessary to allow for the proposed use; and that the Water Quality Resource can be restored to an equal or better condition.

Table 16.34.075-1 Ecological Functional Values of Riparian Corridors

| Ecological Function | Landscape Features Providing Functional Values |
|----------------------------|--|
| Microclimate and | Forest canopy or woody vegetation within 100 feet of a stream; a |

| | |
|--|---|
| shade | wetland ¹ ; or a flood area ² . |
| Streamflow moderation and water storage | A wetland or other water body ³ with a hydrologic connection to a stream; or a flood area ² . |
| Bank stabilization, sediment and pollution control | All sites within 50 feet of a surface stream; |
| | Forest canopy, woody vegetation, or low structure vegetation/open soils within 100 feet of a stream or a wetland; or forest canopy, woody vegetation, or low structure vegetation/open soils within a flood area; and |
| | Forest canopy, woody vegetation, or low structure vegetation/open soils within 100—200 feet of a stream if the slope is greater than 25 percent. |
| Large wood and channel dynamics | Forest canopy within 150 feet of a stream or wetland; or within a flood area; and |
| | The channel migration zone is defined by the floodplain, but where there is no mapped floodplain a default of 50 feet is established to allow for the channel migration zone. |
| Organic material sources | Forest canopy or woody vegetation within 100 feet of a stream or wetland; or within a flood area. |
| NOTES: | |
| ¹ Refers to “hydrologically-connected wetlands,” which are located partially or wholly within one-quarter mile of a surface stream or flood area. | |
| ² Developed floodplains are not identified as HCAs because they do not provide primary ecological functional value. | |
| ³ “Other water body” could include lakes, ponds, reservoirs, or manmade water feature that is not a water quality facility or farm pond. | |

f. Mitigation Plan. The purpose of a mitigation plan is to compensate for unavoidable significant detrimental impacts to ecological functions that result from the chosen development alternative as identified in the impact evaluation.

i. An applicant may choose to develop a mitigation plan consistent with the requirements of Section 16.34.070(**BC**)(4). If an applicant so chooses, then the applicant shall submit a mitigation plan demonstrating such compliance.

ii. If an applicant chooses to develop an alternative mitigation plan that would not comply with the requirements of Section 16.34.070(**BC**)(4), including, for example, a proposal to create an alternative plant community type such as an oak savannah or a low-structure plant community, or where an applicant demonstrates that a portion of identified HCA on its property provides only impaired ecological functions, then the applicant shall submit a mitigation plan that includes all of the following:

(A) An explanation of how the proposed mitigation will adequately compensate for the impacts to ecological functions described in the impact evaluation required by Section 16.34.075(D)(1)(e). The applicant may use the mitigation that would be required under Section

16.34.070(BC)(4) as the baseline mitigation required to compensate for disturbance to a HCA that provides an average level of ecological functions. Such explanation shall include:

- (1) If the applicant uses the mitigation that would be required under Section 16.34.070(BC)(4) as the baseline mitigation required to compensate for disturbance to a HCA, then the applicant shall submit a calculation of the number of trees and shrubs the applicant would be required to plant under Section 16.34.070(BC)(4);
 - (2) A site plan showing where the specific mitigation activities will occur and the numbers and sizes of trees and shrubs that the applicant proposes to plant; and
 - (3) A discussion of site preparation including soil additives and removal of invasive and noxious vegetation, plant diversity, plant spacing, planting season, and immediate post-planting care including mulching, irrigation, wildlife protection, and weed control.
- (B) Documentation of coordination with appropriate local, regional, special district, state, and Federal regulatory agencies.
- (C) A list of all parties responsible for implementing and monitoring the mitigation plan and, if mitigation will occur off-site, the names of the owners of property where mitigation plantings will occur.
- (D) The applicant's mitigation site monitoring and reporting plan. Applicant must provide a minimum of three years of monitoring and maintenance (with removal of invasive species). All such maintenance must be documented and reported annually.
- (E) If the proposed mitigation will not be conducted on-site, the applicant shall submit a map and accompanying narrative that details the following:
- (1) The number of trees and shrubs that can be planted on-site;
 - (2) The on-site location where those trees and shrubs can be planted;
 - (3) An explanation of why it is not practicable for the remainder of the mitigation to occur on-site; and
 - (4) The proposed location for off-site mitigation and documentation that the applicant can carry out and ensure the success of the mitigation, including documentation that the applicant possesses legal authority to conduct and maintain the mitigation, such as having a sufficient ownership interest in the mitigation site, and, if the mitigation is not within a HCA, documentation that the mitigation site will be protected after the monitoring period expires, such as through the use of a restrictive covenant. In all cases, mitigation must be provided within the City of Happy Valley City limits.

(F) If the mitigation area is off-site and not within the same subwatershed (6th Field Hydrologic Unit Code) as the related disturbed HCA, the applicant shall submit an explanation of why it is not practicable to conduct the mitigation within the same subwatershed and of why and how, considering the purpose of the mitigation, the mitigation will provide more ecological functional value if implemented outside of the subwatershed.

(G) An implementation schedule, including timeline for construction, mitigation, mitigation maintenance, monitoring, reporting and a contingency plan. If the applicant is proposing any in-stream work in fish-bearing streams as part of the mitigation project, then the applicant shall submit documentation that such work will be done in accordance with the Oregon Department of Fish and Wildlife in-stream work timing schedule.

iii. In addition, where a Water Quality Resource is proposed to be impacted, the mitigation plan shall contain the following additional information:

(A) A description of adverse water quality impacts that will be caused as a result of development;

(B) An explanation of how development in the Water Quality Resource has been limited to the area necessary to allow for the proposed use and how the Water Quality Resource area will be restored to an equal or better condition; and

(C) A map showing where the specific mitigation activities will occur.

c. The Impact Evaluation and Alternatives Analysis required by Section 16.34.075(D)(1)(e) and the Mitigation Plan required by Section 16.34.075(D)(1)(f) shall be prepared and signed by either (i) a knowledgeable and qualified natural resource professional, such as a wildlife biologist, botanist, or hydrologist, or (ii) a civil or environmental engineer registered in Oregon to design public sanitary or storm systems, stormwater facilities, or other similar facilities. The application shall include a description of the qualifications and experience of all persons that contributed to the Impact Evaluation and Alternatives Analysis and to the Mitigation Plan, and for each person that contributed, a description of the elements of such reports to which the person contributed.

3. Approval Criteria.

a. All application requirements in Section 16.34.075(D)(1) shall be met.

b. Avoid. An applicant shall first avoid the intrusion of development into Water Quality Resources and HCAs to the extent practicable. The development that is proposed must have less detrimental impact to Water Quality Resources and HCAs than other practicable alternatives, including significantly different practicable alternatives that propose less development within Water Quality Resources and HCAs. If there are both Water Quality Resource Areas and HCAs on a property and/or there is more than one type of HCA on a property, then the applicant shall first avoid the intrusion of development into the Water Quality

Resource, then into the higher-valued HCA, to the extent practicable, and the development that is proposed must have less detrimental impact to the Water Quality Resource and higher-valued HCAs than other practicable alternatives. To avoid development in Water Quality Resources and HCAs, and to the extent practicable, applicants shall use the approaches described in Section 16.34.075(D)(1)(e)(iii).

c. Minimize. If the applicant demonstrates that there is no practicable alternative that will not avoid disturbance of Water Quality Resources and HCAs, then the development proposed by the applicant within the Water Quality Resources and HCAs shall minimize detrimental impacts to the extent practicable. If there are both Water Quality Resource Areas and HCAs on a property and/or there is more than one type of HCAs on a property, then the development within Water Quality Resources and higher-valued HCAs shall be considered more detrimental than development within lower-valued HCAs.

i. Development must minimize detrimental impacts to ecological functions and loss of habitat consistent with uses allowed by right under the base zone, to the extent practicable.

ii. To the extent practicable within Water Quality Resources and HCAs, the proposed development shall be designed, located, and constructed to:

(A) Minimize grading, removal of native vegetation, and disturbance and removal of native soils by using the approaches described in Section 16.34.070(B)(2), reducing building footprints, and using minimal excavation foundation systems (e.g., pier, post or piling foundation);

(B) Minimize adverse hydrological impacts on water resources such as by using the techniques described in Part (a) of Table 16.34.075-2, unless their use is prohibited by an applicable and required State or Federal permit issued to a unit of local government having jurisdiction in the area, such as a permit required under the Federal Clean Water Act, 33 U.S.C. Sections 1251 et seq., or the Federal Safe Drinking Water Act, 42 U.S.C. Sections 300f et seq., and including conditions or plans required by such permit;

(C) Minimize impacts on wildlife corridors and fish passage such as by using the techniques described in Part (b) of Table 16.34.075-2; and

(D) Consider using the techniques described in Part (c) of Table 16.34.075-2 to further minimize the impacts of development in the Water Quality Resources and HCAs.

Table 16.34.075-2 Habitat-Friendly Development Practices*

| Part (a): Design and Construction Practices to Minimize Hydrologic Impacts | |
|---|---|
| 1. | Amend disturbed soils to original or higher level of porosity to regain infiltration and stormwater storage capacity. |

2. Use pervious paving materials for residential driveways, parking lots, walkways, and within centers of cul-de-sacs.
 3. Incorporate stormwater management in road rights-of-way.
 4. Landscape with rain gardens to provide on-lot detention, filtering of rainwater, and groundwater recharge.
 5. Use green roofs for runoff reduction, energy savings, improved air quality, and enhanced aesthetics.
 6. Disconnect downspouts from roofs and direct the flow to vegetated infiltration/filtration areas such as rain gardens.
 7. Retain rooftop runoff in a rain barrel for later on-lot use in lawn and garden watering.
 8. Use multifunctional open drainage systems in lieu of more conventional curb-and-gutter systems.
 9. Use bioretention cells as rain gardens in landscaped parking lot islands to reduce runoff volume and filter pollutants.
 10. Apply a treatment train approach to provide multiple opportunities for stormwater treatment and reduce the possibility of system failure.
 11. Reduce sidewalk width and grade them such that they drain to the front yard of a residential lot or retention area.
 12. Reduce impervious impacts of residential driveways by narrowing widths and moving access to the rear of the site.
 13. Use shared driveways.
 14. Reduce width of residential streets, depending on traffic and parking needs.
 15. Reduce street length, primarily in residential areas, by encouraging clustering and using curvilinear designs.
-
16. Reduce cul-de-sac radii and use pervious vegetated islands in center to minimize impervious effects, and allow them to be utilized for truck maneuvering/loading to reduce need for wide loading areas on site.
 17. Eliminate redundant non-ADA sidewalks within a site (i.e., sidewalk to all entryways and/or to truck loading areas may be unnecessary for industrial developments).
 18. Minimize car spaces and stall dimensions, reduce parking ratios, and use shared parking facilities and structured parking.
 19. Minimize the number of stream crossings and place crossing perpendicular to stream channel if possible.
 20. Allow narrow street right-of-ways through stream corridors whenever possible to reduce adverse impacts of transportation corridors.

Part (b): Design and Construction Practices to Minimize Impacts on Wildlife Corridors and Fish Passage

1. Carefully integrate fencing into the landscape to guide animals toward animal crossings under, over, or around transportation corridors.
2. Use bridge crossings rather than culverts wherever possible.
3. If culverts are utilized, install slab, arch or box type culverts, preferably using bottomless designs that more closely mimic stream bottom habitat.
4. Design stream crossings for fish passage with shelves and other design features to facilitate terrestrial wildlife passage.
5. Extend vegetative cover through the wildlife crossing in the migratory route, along with sheltering areas.

Part (c): Miscellaneous Other Habitat-Friendly Design and Construction Practices

1. Use native plants throughout the development (not just in HCA).
2. Locate landscaping (required by other sections of the code) adjacent to HCA.

3. Reduce light spill-off into HCAs from development.
4. Preserve and maintain existing trees and tree canopy coverage, and plant trees, where appropriate, to maximize future tree canopy coverage.

* These development practices represent the state of scientific knowledge at the time of this Code's enactment; if more effective habitat-friendly practices become available, they should be used.

d. Mitigate. If the applicant demonstrates that there is no practicable alternative that will not avoid disturbance of a Water Quality Resource or HCA, then development must mitigate for adverse impacts to the Water Quality Resource and HCA. All proposed mitigation plans must meet the following standards.

i. The mitigation plan shall demonstrate that it compensates for detrimental impacts to ecological functions provided by HCAs, after taking into consideration the applicant's efforts to minimize such detrimental impacts through the use of the techniques described in Table 16.34.075-2 and through any additional or innovative techniques. A mitigation plan that requires the amount of planting that would be required under Section 16.34.070(~~BC~~)(4) based on the amount of proposed disturbance area within the HCA, and that otherwise complies with all of the mitigation requirements in Section 16.34.070(~~BC~~)(4), shall be considered to have satisfied the requirements of Section 16.34.075(D)(2)(d).

ii. Mitigation shall occur on the site of the disturbance, to the extent practicable. Off-site mitigation shall be approved if the applicant has demonstrated that it is not practicable to complete the mitigation on-site and that the applicant has documented that it can carry out and ensure the success of the off-site mitigation, as described in Section 16.34.075(B)(1)(b)(iv). In addition, if the off-site mitigation area is not within the same subwatershed (6th Field Hydrologic Unit Code) as the related disturbed HCA, the applicant shall demonstrate that it is not practicable to complete the mitigation within the same subwatershed and that, considering the purpose of the mitigation, the mitigation will provide more ecological functional value if implemented outside of the subwatershed. Mitigation shall not be allowed outside of the Metro jurisdictional boundary.

iii. All re-vegetation plantings shall be with native plants listed on the Happy Valley Plant List (Appendix A).

iv. All in-stream work in fish-bearing streams shall be done in accordance with the Oregon Department of Fish and Wildlife in-stream work-timing schedule.

v. A mitigation maintenance plan shall be included and shall be sufficient to ensure the success of the planting, and compliance with the plan shall be a condition of development approval.

e. Natural resource boundaries shall be located and staked by a qualified professional prior to any construction, demolition, grading or site clearing.

Construction barrier fencing should be erected around the Vegetated Corridor prior to construction.

- f. Protective measures and erosion control measures shall comply with the City's Erosion Control Ordinance No. 141. These measures shall remain in place throughout the development of the site.
- g. No stockpiling of fill materials, parking, or storage of construction equipment shall be allowed within a significant natural resource or its buffer.
- h. The types, sizes and intensities of lights must be placed so that they do not shine directly into the significant natural resource or its buffer.
 - i. The removal of native vegetation shall not be permitted from a resource area unless:
 - i. A permit has been issued by the City in accordance with the land development code; or
 - ii. Species to be removed are on the Happy Valley Plant List's Nuisance Plant List or Prohibited Plant List (Appendix A).
- j. Plantings within the natural resource shall only be with species on the Happy Valley Plant List's native groundcovers, shrub or tree lists (Appendix A).

16.34.080 Variances.

A. The purpose of this section is to ensure that compliance with this chapter does not cause unreasonable hardship. To avoid such instances, the requirements of this chapter may be varied. Variances are also allowed when strict application of this chapter would deprive an owner of all economically viable use of land.

B. This section applies in addition to the standards governing proposals to vary the requirements of the base zone. Variances will be processed in accordance with the Type II procedures in Section 16.61.030.

C. Notice of variance applications shall be provided:

- 1. Upon receiving an application to vary the requirements of this Code, the notice shall be provided to all property owners within three hundred (300) feet of the subject property inside the urban growth boundary; to Metro; to any affected neighborhood or community planning organization recognized by the City and whose boundaries include the property; and to any watershed council recognized by the Oregon Watershed Enhancement Board and whose boundaries include the property.
- 2. Within seven days of a decision on the variance, notice of the decision shall be provided to Metro; to any affected neighborhood or community planning organization recognized by the City and whose boundaries include the property; to any watershed council recognized by the Oregon Watershed Enhancement Board and whose boundaries include the property; and to any other person required to receive notice of such a decision under state law.

D. Hardship Variance. Variances to avoid unreasonable hardship caused by the strict application of this Code are permitted subject to the criteria set forth in this section. To vary from the requirements of this Code, the applicant must demonstrate the following:

- 1. The variance is the minimum necessary to allow the proposed use or activity;
- 2. Unless the proposed variance is from mitigation under Section 16.34.070(B)(4) or mitigation under Section 16.34.075(B); 16.34.075(C); or 16.34.075(D)(1)(b) and

16.34.075(D)(2)(d), the proposed use will comply with those standards, as applicable; and

3. The proposed use complies with the standards of the base zone.

E. Buildable Lot Variance. A variance to avoid the loss of all economically viable use of a lot that is partially inside a HCA is permitted. Applicants must demonstrate the following:

1. Without the proposed variance, the applicant would be denied economically viable use of the subject property. To meet this criterion, the applicant must show that:

a. The proposed use cannot meet the standards in Section 16.34.080(D) (Hardship variance), and

b. No other application could result in permission for an economically viable use of the subject property. Evidence to meet this criterion shall include a list of uses allowed on the subject property;

2. The proposed variance is the minimum necessary to allow for the requested use;

3. The proposed variance will comply with Section 16.34.070(BC)(4); 16.34.075(B); 16.34.075(C); or ~~16.34.075(D)(1)(b) and~~ 16.34.075(D)(23)(d) (Mitigation); and

4. The proposed use complies with the standards of the base zone.

F. Variance Conditions. Conditions may be imposed to limit any adverse impacts that may result from granting any variance. (Ord. 389 § 1(Exh. A), 2009)

[...]

16.42.060 Fencing, walls and screening.

[...]

C. All fencing, walls or screening shall be subject to the following standards and requirements:

1. Side and Rear Setback Areas. In any residential district, a “stand-alone” fence or decorative wall not to exceed six feet in height may be located or maintained within the required interior side or rear yards. For exterior side yards within corner lots, a maximum six-foot tall fence or decorative wall may exist within the exterior side yard to the point of the front building line, or the presence of any site visibility area and/or easement, whichever occurs first. **However, a fence which is structurally engineered by determination of the Building Official and receives a building permit may be constructed to a maximum height of eight feet.**

2. Front Property Setback Areas. Within any required front yard, a maximum four-foot tall fence or decorative wall may exist within the front yard, unless located within a site visibility area and/or easement, in which case said fence or decorative wall shall not exceed two and one-half feet in height.

3. In any district, trees, shrubbery, berms, arbors, trellises and similar landscape features are permitted in all required yards provided that on corner lots no object or planting shall obscure vision between the vertical heights of two and one-half feet and eight feet, as measured from the adjoining curb elevation, for the triangular area which has sides extending from the corner of the property in either direction, the same distance as the front yard setback requirement for that district.

4. Height and Opacity. Where landscaping is used for required screening, it shall be at least six feet in height and at least eighty (80) percent opaque, as seen from a perpendicular line of sight, within two years following establishment of the primary use of the site.
5. Chain Link Fencing. A chain link fence with slats shall qualify for screening only if a landscape buffer is also provided in compliance with this section.
6. The height of hedges, fences, walls, and berms shall be measured from the lowest adjoining finished grade, except where used to comply with screening requirements for parking, loading, storage, and similar areas. In these cases, height shall be measured from the finished grade of such improvements. Screening is not permitted within vision clearance areas.
7. Earthen berms up to six feet in height may be used to comply with screening requirements. Slope of berms may not exceed 2:1 and both faces of the slope shall be planted with groundcover, shrubs, and trees.
8. Long expanses of fences and walls shall be designed to prevent visual monotony through use of offsets, changes of materials and textures, or landscaping.

[...]

16.44.050 Accessory dwelling units.

A. Purpose. The purpose of this chapter is to establish appropriate locations, site development standards, and permit requirements to allow for the provision of accessory dwelling units (ADU's) within the city. ADU's, commonly referred to as "granny flats" or "mother-in-law apartments" are a well established housing strategy that utilize an additional living unit in areas zoned for single-family use. By creating a self-contained unit with a separate entrance and kitchen from existing space in the primary dwelling; a combination of existing and newly created space; space in an existing accessory building; or, from the addition of a new accessory building, secondary living areas can be created in association with existing or new homes. Such living space can aid in the housing and dependent care of family members, provide rental income to offset the costs of home-ownership, and add to the supply of affordable housing options available to the citizens of Happy Valley.

B. Development Standards. In addition to the applicable standards of the underlying residential zone, ADU's shall comply with the following development standards:

1. An ADU shall meet all applicable health, fire safety and building codes, pursuant to the Oregon Structural Specialty Code;
2. ADU's shall be allowed only in conjunction with parcels containing one single-family dwelling. Only one ADU per parcel is permitted, and either the primary dwelling or the ADU must be owner occupied. Alternatively, the owner may appoint a family member as a resident caretaker of the primary dwelling or of the ADU;
3. The ADU may be created by converting existing living area or adding floor area, or construction of a new structure that is either attached or detached. **For example, conversion of space above a primary dwelling's detached garage would qualify as a detached ADU. However, no detached ADU structure may include a secondary garage (one garage for the primary structure and one for the ADU) separate from the primary dwelling.** An attached garage does not qualify as living area. In addition, the building height of the ADU may not exceed the building height of the primary structure;
4. The maximum gross habitable floor area (GHFA) of an ADU involving the conversion of existing space within a primary dwelling such as a basement or addition shall not exceed fifty (50%) percent of the GHFA of the primary residence on the lot. Construction of a new

structure that is attached by means of a breezeway or similar feature does not qualify as an attached structure. For a detached ADU, the GHFA shall not exceed fifty (50%) percent of the GHFA of the primary residence on the lot, and shall not exceed a maximum of one thousand (1,000) square feet, whichever is less. The floor area of any garage in the primary dwelling shall not be included in the total calculation of GHFA;

5. Only one entrance shall be located on the front of the primary dwelling or any portion of the primary dwelling abutting a street, unless the dwelling contained additional entrances before the accessory residential unit was created;

6. In order to maintain an architectural character similar to the primary dwelling, the accessory residential unit shall have siding and roofing materials and exterior paint colors that generally match the siding and roofing materials, and exterior paint colors of the primary dwelling;

7. The development of the ADU shall provide an additional on-site parking space if the primary dwelling has less than four on-site spaces (for example, inclusive of a garage and driveway) available before construction of the accessory unit;

8. A minimum six-foot hedge or site-obscuring fence may be required by the Planning Official or designee to buffer a detached ADU from dwellings on adjacent lots, when buffering is necessary for the privacy and enjoyment of yard areas of adjacent properties.

16.44.055 Accessory uses.

An accessory use shall comply with all requirements of a principal use, except as this title specifically allows to the contrary, and shall comply with the following limitations:

A. Fence limitations shall be as follows:

1. No fence constructed or installed on an interior or rear property line shall exceed the height of six feet unless said fence is structurally engineered and receives building permit approval. In such cases, a fence may be constructed to a maximum height of eight feet. Evergreen or shrubbery planting may be maintained on such property lines when the neighbor is agreeable thereto.

2. A fence located in a required front yard shall not exceed a height of two and one-half feet measured from the curb elevation or required side yard on the street side of a corner lot, forward of the front yard setback, shall not exceed a height of six feet. However, in all scenarios involving inadequate clear vision caused by fence construction on a corner lot, the fence shall either be relocated, or shall be limited to a maximum height of two and one-half feet measured from the curb elevation. Where adequate vision clearance exists at driveways, the Planning Official or designee may set the height of said fence.

3. Fence height restrictions do not apply to public utility fences or to chain link fences enclosing school and public playgrounds.

B. A greenhouse or hothouse may be maintained accessory to a dwelling only if there are no sales.

C. A garage, accessory storage and workshop building may be maintained accessory to a dwelling.

D. An uncovered swimming pool may be located within a required rear yard or side yard behind the rear building line provided it is no closer than five feet to the property line.

1. Any pool forty-eight (48) inches in height above grade level is to be considered its own fence if the following conditions are met:

a. The method of entering the pool is a removable ladder or stair that is moved a safe distance from said pool when the pool is not in use.

- b. If a deck or walkway is constructed around aforesaid pool that is over thirty (30) inches above grade, this deck or walkway must be equipped with a guardrail with either vertical or horizontal members that will not permit passage of a nine-inch sphere. If no fence with self-closing and locking gates encloses the yards, one must be installed on the stair or ladder that serves as entry onto the deck or walkway. If more than one entry to deck or walkway is provided, all entries shall have self-closing and locking gates.
 - c. The pool must be set and maintained as pursuant to manufacturer's instructions.
2. Any pool installed at ground level or below ground level shall be protected against accidental entry by a fence not less than forty-eight (48) inches nor more than eighty-four (84) inches in height with a self-closing, self-locking gate not less than forty-eight (48) inches from the edge of the pool.
 - a. The pool must be set and maintained as pursuant to manufacturer's instructions;
 - b. Any pool less than forty-eight (48) inches in height shall be considered to be at ground level installation and treated as same for protective fencing; or
 - c. The pool and/or spa and hot tub must be covered by a power safety cover that complies with ASTM F 1346 as listed in Section B106 of the International Residential Code (2000) for one- and two-family dwellings.

E. An accessory building (commonly referred to as a "shed") measuring no greater than 200 square-feet in size and ten feet in height may be located within a required rear yard or the required side yards behind the ~~back~~ front building line of the primary structure, provided that a minimum three-foot setback is maintained between the accessory structure and any pertinent rear or side property line and said accessory building shall not contain more than two hundred (200) square feet in area and be not greater than ten (10) feet in height. ~~An accessory building meeting these requirements may be built to the property line.~~

F. An unenclosed covered patio or a covered deck enclosed only by railings may be placed in the rear yard of a residence provided that no part is closer than ten (10) feet to a rear property line. An uncovered deck may be located within the required rear yard or the required side yard behind the ~~back~~ front building line provided that it may not be closer than ~~five~~ three feet to a property line.

G. ~~Sport Athletic courts or facility.~~ Sport Athletic courts or facilities, typically associated with expansive single-family residences, take many forms, including those constructed for tennis, full-court basketball, volleyball, etc. Although a specific land use action is not associated with the review of sport courts, a building permit is required, which in turn requires signature by the Planning Official or designee, and shall be evaluated according to the following criteria:

1. Lighting Plan: The applicant shall submit a photometric lighting plan delineating the relationship between exterior lighting, the subject site, and surrounding residential properties within two hundred (200) feet.
2. Storm Water Management: The applicant shall be subject to the rules and requirements of Clackamas County Service District No. 1 (Water Environment Services).
3. Screening and Buffering: The For athletic courts or facilities over 2,000 square-feet in size, the applicant shall provide a minimum ten-foot wide landscaped buffer between the sport athletic court or facility and abutting residential properties. The For all

athletic courts or facilities, the applicant shall provide a landscape plan that illustrates planting materials, sizes, and overall design (which may include lawn), to include a minimum six-foot tall solid wood fence, cyclone fence with slats, or a solid vegetative screen on property lines surrounding the sport **athletic court or facility** that abut residential development.

[...]

16.50.020 General public facilities standards.

[...]

F. New individual subsurface sewage disposal systems may be installed at any time to replace an existing but failing system within an existing lot of record, or may be installed on a previously undeveloped lot of record formerly within unincorporated Clackamas County, but may not be utilized to serve parcels or lots created by any land division, or to serve any new nonresidential development. However, if public sanitary sewer service is available within **five** **three** hundred (**5300**) feet of any property line of the existing system and capable of serving the site of the failing system or undeveloped lot of record with a regular or gravity hookup, sanitary sewer service shall be utilized rather than a new replacement individual onsite subsurface sewage disposal systems.

[...]

**Table 16.62.020-1
Land Use and Minor and Major Design Review**

| Proposed Activity | Land Use Review | Minor Design Review | Major Design Review |
|--|------------------------|----------------------------|----------------------------|
| Change in occupancy or use | | | |
| 1. Change in occupancy from one type of land use to a similar land use | X | | |
| 2. A change in use of a structure from residential to commercial or industrial | | X | |
| New Construction | | | |
| 1. Single-family detached dwelling (including manufactured home on its own lot) | X | | |
| 2. A single duplex, or up to two single family attached (town home) units not requiring a land division, and accessory parking on the same lot | X | | |
| 3. Residential developments made up of a total of thirty attached dwelling units or less | | X | |
| 4. Residential developments made up of more than thirty attached dwelling units | | | X |
| 5. Non-residential development 5,000 square feet or less | X | | |
| 5. Non-residential development greater than 5,000 square feet | | | X |
| Non-Residential and Multi-Family Additions and Remodeling | | | |
| 1. Non-residential building additions or substantial exterior remodeling up to 20% of an existing structure, except that the following shall require either minor or major design review: <ul style="list-style-type: none"> ▪ Enlarging or extending a nonconforming use ▪ Increases the building footprint or height; ▪ Modifies more than twenty-five (25%) percent of the façade or, if the property abuts property zoned for residential use, modifies any portion of the facade visible | X | | |

| | | | |
|--|---|---|---|
| from the residentially zoned property. | | | |
| 2. Expansion or substantial exterior remodeling of existing nonresidential or multi-family development which is between twenty (20%) and fifty (50%) percent of the building's gross floor area | | X | |
| 3. Expansion or substantial exterior remodeling of existing nonresidential development which is greater than fifty (50%) percent of the building's gross floor area | | | X |
| Other Activities | | | |
| 4. Minor Modifications to development approvals as defined by Chapter 16.66 | | X | |
| 5. Any proposed development that has a valid conditional use permit. Major modifications to a development with a conditional use permit shall require review and approval in accordance with Chapter 16.64 - Conditional Use Permits | X | | |
| 6. Home occupations requiring a permit under Chapter 16.69.020 | X | | |
| 7. Temporary uses requiring a permit under Chapter 16.69 | X | | |
| 8. Accessory structures and accessory parking | X | | |
| 10. Development and land uses that are part of a previously approved Design Review or Conditional Use Permit application | X | | |
| 11. Public improvements required by a condition of approval (e.g., transportation facilities and improvements, parks, trails, and similar improvements, as determined by the Planning Official) | X | | |
| Dredging, filling, grading, paving, <u>construction of retaining walls</u> , excavation or drilling operations located within the city <u>that significantly impact an existing or potential design review application as determined by the Planning Official.</u> | | X | |
| <u>Dredging, filling, grading, paving, construction of retaining walls, excavation or drilling operations located within the city that minimally impact an existing or potential design review application as determined by the Planning Official.</u> | X | | |

16.62.030 Design review.

[...]

B. Time Limits. Approvals shall be void after two years unless substantial construction on the site has begun, as determined by the City. The Planning Commission or Planning Official or designee respectively may extend an approval for an additional period not to exceed one year, based on the following:

1. No changes are made to the original site design review plan;
2. The applicant can show intent of initiating construction on the site within the one-year extension period;
3. There have been no changes to the applicable provisions on which the approval was based. If there have been changes to the applicable provisions and the plan does not comply with those changes, then the extension shall not be granted; and
4. The applicant demonstrates that failure to obtain building permits and substantially begin construction within the two-year approval period was beyond the applicant's control. An application for an extension shall be filed with the applicable

fee within thirty (30) days from the expiration of the approval. No more than three extensions shall be allowed for each approval.

[...]

16.63.020 General requirements.

[...]

F. Density Calculations. Density calculation is the means by which density for any parcel may be determined and ultimately developed within that parcel in a more efficient and land conscious manner. This portion of the Land Development Code provides the method for calculating the overall density for any given parcel of land which may contain both constrained land, partially constrained land and unconstrained land. The minimum and maximum number of dwelling units permitted on a parcel of land is limited by both the number of units allowed by the applicable zoning district(s) and the amount of buildable land. The need to provide infrastructure and the presence of easements for major utilities corridor also impacts the number of units permitted on a parcel of land.

[...]

2. Density and Open Space Transfer Limitation. Density and open space transfers may occur through the following processes:

- a. Through the PUD process, development may be clustered on-site in order to avoid constrained or partially constrained land. In addition, density transfer may occur between separate parcels when one parcel contains constrained or partially constrained land, provided the following provisions have been fulfilled:
 - i. The parcels are under common ownership and are contiguous; or
 - ii. The parcels are not under common ownership and are contiguous, but a written agreement to transfer has been executed, notarized, recorded and provided to the City; and
 - iii. The scope of the proposed development project includes all affected properties.
 - iv. All density calculation actions shall be made part of the property deed for which the action occurred and will be recorded on behalf of the City to insure public notification of the transfer of development rights, **and shall be calculated per the provisions for density transfer found within this Title.**
 - v. The resulting development on the parcel or portion of the parcel receiving the transfer may not exceed one hundred seventy-five (175) percent of the maximum density allowed within the underlying zoning district(s) for that buildable area. Due to the need for differentiation in lot sizes necessary to accommodate said density transfer (potentially falling below the minimum lot size found within the underlying development district(s)), a land use application **proposing subdivision of land** involving a **proposed or recorded density or open space** transfer shall be processed under the provisions for Planned Unit Developments (PUDs) pursuant to Section 16.63.140.
- b. **In scenarios not involving a comprehensive plan map amendment/zone change; master plan or PUD application(s), transfer of residential density or general open space requirements associated with the existing Comprehensive Plan Map designation/zoning district from commonly owned residential lands (from one lot of record or parcel to another) via**

a proposed purchase and sale agreement, lot line adjustment, deed restriction or other transfer mechanism is permitted, provided the following provisions have been fulfilled:

- i. The parcels are under common ownership; or
- ii. The parcels are not under common ownership and are contiguous, but a written agreement to transfer has been executed, notarized, recorded and provided to the City;
- iii. The scope of the proposed purchase and sale agreement, lot line adjustment, deed restriction or other transfer mechanism includes all affected properties;
- iv. A proposed open space transfer does not include area designated as a significant natural resources as defined within Chapter 16.34;
- v. A proposed open space transfer does not reduce the total open space requirement for the transferring property or properties to less than five percent of the greater subject contiguous area;
- vi. The scope of the proposed purchase and sale agreement, lot line adjustment, deed restriction or other transfer mechanism includes a recorded covenant against the receiving property in favor of the sending property providing that any person with an ownership interest in the sending property shall be entitled to use any open space in the receiving property. The covenant shall name the City of Happy Valley as a beneficiary for purposes of enforcing said covenant; and,
- vii. Without regard to the proposed transfer mechanism, the proposed density or open space transfer shall be processed as a Type II procedure (administrative) per the requirements of Section 16.61.030.

[...]

M. Lands Subject to Hazardous Conditions. Any land area within the City which has been determined to be unbuildable pursuant to the City's Comprehensive Plan and revised build-able land survey, **Development Code** shall be developed for building purposes only in conjunction with the appropriate RSD-1 Overlay District when adequate methods for mitigating the hazards are submitted, reviewed and approved by all appropriate agencies. The appropriate agencies, including the City Engineer, shall use as their review and approval criteria the pertinent sections of the applicable codes, ordinances, laws, statutes, administrative policies and rules, and other applicable documents. Land areas determined not to be buildable may be utilized to help complete or fulfill a requirement for the provision of open space, if a maintenance agreement is provided by the property owner and approved by the City Attorney **Engineer**.

[...]

16.63.130 Planned unit development.

[...]

H. Distribution of Preliminary Subdivision Plats or Planned Unit Development Plans. As found in Section 16.63.050.

I. Preliminary Approval.

1. As found in Section 16.63.060;
2. In considering the preliminary planned unit development proposal, the Planning Commission shall apply the following additional criteria when making a determination:

- a. Density.
- i. The number of dwelling units permitted in a development is based on the net development area which is determined by subtracting twenty (20) percent of the gross development area and dividing by the minimum lot area per dwelling unit as required by the development district,
 - ii. Where any site contains more than one development district within its project boundaries, any density calculations shall be applied in the same proportion as that of the development district which are represented in the project area,
 - iii. In any planned unit development, the total siting of density as calculated through Sections 16.63.020.F in any ~~RSD-1 overlay~~ steep slopes and natural resource overlay area shall not exceed the net density of the applicable district.

[...]

16.67.015 Initiation of a plan amendment.

A. Any change in the text, map or implementing ordinances of adopted Happy Valley land use regulations may be initiated by the City, any resident of the City, property owners or authorized agent. A change in the text may be initiated by as few as one person desiring a revision in the wording, scope, direction or organization of the plan. A change in the map which involves properties and/or district boundaries must be initiated by at least seventy-five (75) percent of the property owners or authorized agents who own or represent at least seventy-five (75) percent of the land area involved in the petition of change. The City may, for the purposes of revising or updating plans to comply with statewide goals, legal guidelines or other necessary criteria, initiate a change in the map or text of any plan and this Land Development Code at any time.

B. Amendments to the Land Development Code. An amendment to any chapter or section of this title for the purpose of adding or deleting words or subjects, broadening or narrowing scope, providing direction, clarification or improvement of the Development Code may be initiated by any person or persons, including the City itself. See Sections ~~176.67.020~~ and 16.67.030 of this chapter.

[...]

16.67.070 Annexations.

A. Except as provided in subsection B of this section, when a property or area is annexed to the City from unincorporated Clackamas County with an accompanying Clackamas County Comprehensive Plan designation and zone, the action by the City Council to annex the property or area shall include an ordinance to amend the City's Comprehensive Plan map/zoning map to reflect the conversion from the County designation/zone to a corresponding City designation/zone, as shown in Table 16.67.070-1 below.

Table 16.67.070-1 Land Designation Conversion Table

| Clackamas County Zone | City of Happy Valley Zone |
|-------------------------|---------------------------|
| Urban/Rural Residential | |
| R-2.5 | SFA |
| R-5 | R-5 |
| R-7 | R-7 |
| R-8.5 | R-8.5 |
| R-10 | R-10 |

| | |
|---|------------------|
| R-15 | R-15 |
| R-20 | R-20 |
| MR-1 | MUR-M1 |
| MR-2 | MUR-M2 |
| HDR | MUR-M3 |
| RA-2 | R-15 |
| FU-10 | FU-10 |
| Natural Resources | |
| EFU | EFU* |
| Commercial | |
| NC | MUE-NC |
| C-2 | MCC |
| RCC | MCC |
| RCO | MUC |
| OC | CCC |
| RCHD | MUR-M2 |
| OA | MUC |
| Industrial | |
| I-2 | EC-IC |
| I-3 | IC |
| BP | EC |
| Special Districts | |
| OSM | IPU |
| Sunnyside Village | |
| VR-4/5 | VR-4/5* |
| VR-5/7 | VR-5/7* |
| VCS | VCS* |
| VA | VA* |
| VO | VO |
| VTH | VTH |
| *Annexation of these zoning districts would require the creation of a new Comprehensive Plan designation/zoning district within the City that would mirror the applicable Clackamas County designation/zone. | |

B. When an unincorporated property within the East Happy Valley Comprehensive Plan area, Aldridge Road Comprehensive Plan area, or the Rock Creek Mixed Employment Comprehensive Plan area is annexed to the City, the property shall be rezoned to the applicable zoning designation in the Comprehensive Plan pursuant to the applicable requirements of the Land Development Code.

C. For any proposed annexation to the City, application shall be made directly to the City of Happy Valley on the appropriate forms and accompanied with the required fee. Upon receipt of a copy of the form, the City shall schedule a public hearing before the Planning Commission, which shall make a recommendation to the City Council. The City may utilize any lawful annexation process under state, regional or local law, including the expedited annexation process established in the Metro Code. An expedited annexation process shall be

sent directly to the City Council for review. Expedited annexations shall be processed as an ordinance pursuant to the City of Happy Valley Charter.

D. For any proposed deannexation from the City, application shall be made directly to the City of Happy Valley on the appropriate forms and accompanied with the required fee. Upon receipt of a copy of the form the City shall schedule a public hearing before the ~~Planning Commission, which shall make a recommendation to the City Council.~~ (Ord. 389 § 1(Exh. A), 2009)

[...]

Chapter 16.69 Miscellaneous Permits

16.69.010 Temporary Use Permits

[...]

B. Short Term Outdoor Special Events. These types of events occur for a period no longer than three (3) days and nights. Events that occur annually within the city limits may be reviewed as a conditional use in accordance with ~~Section 16.16.220~~ **Chapter 16.64** of this title. Other events shall be reviewed administratively. The city shall approve, approve with conditions or deny a short term outdoor special event temporary use permit based on findings that all of the following criteria are satisfied:

1. The use is held primarily outdoors and will continue for no longer than seventy-two (72) consecutive hours, plus a reasonable time period for setting up before the event, and cleaning up after the event;
2. The conditional use permit application does not violate any conditions of approval for the property (e.g., prior development permit approval);
3. Adequate water and sanitary facilities are provided;
4. Adequate refuse storage and disposal facilities are provided;
5. Adequate food services are provided;
6. Adequate emergency medical facilities and communication systems are provided;
7. Adequate fire protection is provided;
8. Adequate security personnel are provided; and,
9. Adequate pedestrian, bicycle and vehicle access are provided.

[...]

16.69.020 Home Occupation Permits

A. Purpose. The purpose of this section is to encourage those who are engaged in small commercial ventures which could not necessarily be sustained if it were necessary to lease commercial quarters or which, by the nature of the venture, are appropriate in scale and impact to be operated within a residence. Home occupations are encouraged for their contribution in reducing the number of vehicle trips often generated by conventional businesses. In addition, the purpose of this section is to establish approval criteria and standards to ensure that home occupations are conducted as lawful uses which are subordinate to the residential use of the property and are conducted in a manner that is not detrimental or disruptive in terms of appearance or operation to neighboring properties and residents.

B. Exemptions. Exemptions from the provisions of this chapter are:

1. Short term personal sales (such as a garage sale or the sale of an individual personal item such as furniture or a bicycle) from a residence. The maximum duration of garage/yard sales is three consecutive days and/or ten (10) days total in a calendar year;
2. For-profit production of produce or other food products grown on the premises. This may include temporary or seasonal sale of produce or other food products grown on the premises;
3. Hobbies which do not result in payment to those engaged in such activity;

4. Proven nonconforming home occupations as pursuant to Chapter 16.72 (Nonconforming Uses, Structures and Lots);

5. Residential Care Homes that may have characteristics of a Class B home occupation permit are exempted from the Class B process due to state and federal law, and shall be processed as a Class A home occupation permit.
[...]

E. General Approval Criteria and Standards. All home occupations except those that have proven nonconforming status shall observe the following criteria in addition to the standards established for Class A and Class B uses described in ~~Section 16.16.20.E~~ of this ~~chapter~~ **section**.

F. Class A and B Home Occupations Defined. Home occupations shall be administered as either Class A or Class B uses. A separate home occupation permit and/or fee are required for each property on which a Class B home occupation is undertaken. For the purposes of this section, "home" refers to the residential location, including a single-family dwelling unit, accessory dwelling unit, multifamily unit, condominium unit, etc. In addition to the general criteria outlined in subsection E of this section, home occupations shall observe the following additional standards.

1. Class A Home Occupations. The following characteristics of a Class A home occupation shall be prohibited:

- a. Outside volunteers or employees to be engaged in the business activity other than the persons principally residing on the premises;
- b. Exterior signs which identifies the property as a business location;
- c. More than three clients or customers to visit the premises per day for any reason;
- d. Exterior storage of materials.

2. Class B Home Occupations. Property on which a Class B home occupation is located may show evidence that a business is being conducted from the premises. Therefore the following is allowed for Class B home occupations:

- a. One nonilluminated sign, not exceeding one and one-half square feet, which shall be attached to the residence or accessory structure or placed in a window;
- b. No more than three outside volunteers or employees who are not a principal resident of the premises;
- c. No more than six daily customers or clients. Customers and clients may not visit the business between the hours of 10:00 p.m. and 8:00 a.m. and shall not generate excessive traffic or monopolize on-street parking (the generation of excessive traffic or monopolization of on-street parking shall be at the sole discretion of the Planning Official or designee);
- d. Storage of materials, goods, and equipment, **including vehicles associated with the Class B home occupation and utilized for commercial purposes, which shall be** screened entirely from view by a solid fence, **wall or vegetative screening of sufficient height to provide screening from affected residential neighbors.** Storage shall not exceed **twenty-five** percent of the total lot area and shall not occur within the front yard ~~or the required side yard setback~~.
- e. Off-Street Parking. Two on-site parking spaces shall be provided for the home occupation in addition to those spaces already required for the dwelling. No

~~more than two customer vehicles may visit the home occupation at any one time and these must use the legal, designated parking spaces outside. No commercially licensed vehicle in excess of three-quarter ton manufacturer's rating shall be utilized or parked at the dwelling unit by any resident or employee in connection with the home occupation, unless parked or stored in a fully enclosed building that is screened from adjacent residentially zoned lands by a fence or solid vegetative screen a minimum of six feet in height. In no case shall more than two commercial grade vehicles in excess of one and one-half ton manufacturer's rating be parked or stored within the fully enclosed structures;~~

III. FINDINGS OF FACT

1. The following sections of Title 16 of the Happy Valley Municipal Code (DEVELOPMENT CODE) are applicable to this request:

"16.67.015 Initiation of a plan amendment.

[...]

B. Amendments to the Land Development Code. An amendment to any chapter or section of this title for the purpose of adding or deleting words or subjects, broadening or narrowing scope, providing direction, clarification or improvement of the Development Code may be initiated by any person or persons, including the City itself. See Sections 17~~6~~67.020 and 16.67.030 of this chapter.

Staff Response:

The proposed amendments are initiated by city staff. Therefore, this criterion is satisfied.

16.67.020 Legislative amendments.

Legislative amendments are policy decisions made by City Council. Except in the case of expedited annexation, they are reviewed using the Type IV procedure in Section 16.61.050 and shall conform to the Transportation Planning Rule provisions in Section 16.67.060, as applicable."

Staff Response:

The proposed amendments are legislative in nature, and will require final approval by the City Council. The process utilized for review of the proposed amendments is a Type IV procedure, and the provisions of the Transportation Planning Rule do not apply to any of the proposed amendments. Therefore, this criterion is satisfied.

IV. RECOMMENDATION

The proposed amendments represent more efficient ordinance language that will improve the City's review process and procedures, and are reflective of market supply and demand. Therefore, staff recommends that the Planning Commission forward a recommendation of approval of LDC-05-09 (Municipal Code Administrative Amendments) to the City Council.

NOTICE OF PUBLIC HEARING
City of Happy Valley Planning Commission and City Council

Notice is hereby given that the City of Happy Valley Planning Commission and City Council will hold public hearings on the following dates in regard to proposed Development Code Text Amendments:

Date & Time: Planning Commission, March 9, 2010, 7:00 p.m.
City Council, April 6, 2010, 7:00 p.m.

Hearing Location: City Hall, 16000 SE Misty Dr., Happy Valley, OR 97086;

File & Subject: LDO-05-09, administrative text amendments to Title 16 of the City's Municipal Code (the "Development Code").

Proposal: Administrative text amendments affecting a variety of Development Code sections within Title 16 of the City's Municipal Code.

Location: City Wide

Applicant: City of Happy Valley

Applicable Criteria: Chapter 16.67 of the City of Happy Valley's Municipal Code

Staff Contact: Michael D. Walter, Interim Economic & Community Development Director
503-783-3800

Interested parties are invited to attend this hearing or to submit comments in writing prior to the meeting time. Written testimony may be submitted in advance or in person at the hearing. Those wishing to present verbal testimony, either pro, con, or to raise questions, will be asked to speak after presentation of the report.

Testimony should pertain to the applicable criteria. The decision will be made in accordance with said criteria, and may be appealed to the Land Use Board of Appeals. Failure to raise an issue in writing prior to or before the close of the written comment period or failure to provide sufficient specificity at the public hearing to afford the decision-making body an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based upon that issue. The applicant and any person who submits written comments shall receive notice of the decision.

The failure of the applicant to raise constitutional or other issues relating to proposed amendments without sufficient specificity to allow the decision-making body to respond to the issue precludes an action for damages in circuit court.

The decision-making criteria, application, and records concerning this matter are available at the City of Happy Valley City Hall at the above address during working hours (8:00 a.m. to 5:00 p.m. weekdays), please call for an appointment. For additional information, contact Michael D. Walter, Interim Economic & Community Development Director, at the above address and phone number.

The meeting site is accessible to handicapped individuals. Assistance with communications (visual, hearing) must be requested 72 hours in advance by contacting Marylee Walden, City Recorder at the above phone number.

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